

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA, - Docket No. 3:06-CR-719
5 Plaintiff, -
6 v. - Toledo, Ohio
7 MOHAMMAD ZAKI AMAWI, et al., - May 27, 2008
8 Defendants. - Trial
9 -----

10 VOLUME 57, TRANSCRIPT OF TRIAL
11 BEFORE THE HONORABLE JAMES G. CARR
12 UNITED STATES DISTRICT CHIEF JUDGE, AND A JURY

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23 Proceedings recorded by mechanical stenography, transcript
24 produced by notereading.
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1 (Reconvened at 8:44 a.m.)

2 (The jury is not present.)

3 THE COURT: We'll do this. We'll let the

-08:-44:-38 **4** cross-examination occur. If in some way the witness can't be

-08:-44:-38 **5** transmitted, the witness will have to come back and be subject

-08:-44:-38 **6** to cross-examination. We'll continue.

-08:-44:-38 **7** MR. SOFER: The other thing, Judge. Will we be

-08:-44:-38 **8** able to play a tape they can hear there at least if -- even if

-08:-44:-38 **9** they can't see the transcript?

-08:-44:-38 **10** THE COURT: I would assume.

-08:-44:-38 **11** MR. SOFER: I assume we can play it through the

-08:-44:-38 **12** system.

-08:-44:-38 **13** THE COURT: If they can pick me up, they can pick

-08:-44:-38 **14** that up, I assume. Apparently you can put things to the

-08:-44:-38 **15** document camera.

-08:-44:-38 **16** MR. SOFER: I was just told something else that's

-08:-44:-38 **17** helpful. I think the Court agreed this would be appropriate

-08:-44:-38 **18** under the circumstances. We got about a two sentence

-08:-44:-38 **19** description of what each of these individuals is likely to

-08:-44:-38 **20** testify to. We would ask for a more extensive offer of proof

-08:-44:-38 **21** given the circumstances so we can argue relevance and other

-08:-44:-38 **22** hearsay kind of --

-08:-44:-38 **23** THE COURT: That's been my understanding.

-08:-44:-38 **24** Whatever exhibits are to be used the next day are --

-08:-44:-38 **25** MR. SOFER: We did get the exhibits. That is not

-08:-44:-38 **1** an issue, Judge. Although many of them are in Arabic. And
-08:-44:-38 **2** that's how they were transmitted to us, without any translation
-08:-44:-38 **3** whatsoever. I guess I'm asking -- I was just told, for
-08:-44:-38 **4** instance, the first witness is a half-hour of direct. We were
-08:-44:-38 **5** given, from what we heard -- the one- or two-sentence
-08:-44:-38 **6** description of what this witness is going to testify to would
-08:-44:-38 **7** not ordinarily take a half-hour. Under the circumstances we
-08:-44:-38 **8** would rather not just be going back and forth to the sidebar.
-08:-44:-38 **9** So I'm just asking for a full representation of what it is.

-08:-44:-38 **10** MS. CLEARY: This is Amawi's father, that's
-08:-44:-38 **11** correct. He's going to give a little background of Mr. Amawi.
-08:-44:-38 **12** He's going to talk about his visits to the United States. He's
-08:-44:-38 **13** going to talk about visits to Jordan.

-08:-44:-38 **14** THE COURT: Are we ready to go?

-08:-44:-38 **15** MR. SOFER: As ready as we can be, Judge.

-08:-44:-38 **16** THE COURT: Does Mr. Amawi speak English?

-08:-44:-38 **17** MS. CLEARY: He speaks very little English. We
-08:-44:-38 **18** have translators available. Would you rather the screen be
-08:-44:-38 **19** blacked out with Mr. Amawi sitting where Ms. Grill is or would
-08:-44:-38 **20** you rather have Ms. Grill make any representations?

-08:-44:-38 **21** THE COURT: So Mr. Amawi should probably be sitting
-08:-44:-38 **22** where he's sitting. That way he can be visible to the jury.

-08:-44:-38 **23** Let's have the jury brought down. He can be in the seat. I'll
-08:-44:-38 **24** have Amy swear the interpreters, or an affirm. I should have
-08:-44:-38 **25** made this clear a long time ago: It's my custom to say swear of

-08:-44:-38 **1** affirm. So there we are. They should understand. I --

-08:-44:-38 **2** again, I just don't know what the custom is for people of the

-08:-44:-38 **3** Islamic faith.

-08:-44:-38 **4** MR. HELMICK: Just a reminder, Mr. Mazloun has not

-08:-44:-38 **5** completed his case in chief. The jury needs to be told they're

-08:-44:-38 **6** going out of order.

00:01:03 **7** (Jury enters the courtroom.)

-08:-44:-38 **8** THE COURT: Good morning, ladies and gentlemen. I

00:01:06 **9** hope you had a pleasant weekend. I want to call a couple

-08:-44:-38 **10** things to your attention. First, while Mr. Mazloun has not

-08:-44:-38 **11** completed the presentation of his case -- he's interrupting that

00:01:20 **12** presentation and will resume it later -- you are about to hear

-08:-44:-38 **13** from Mr. Amawi's first witness. The witness actually is

00:01:31 **14** located, I believe, in Jordan; is that correct?

-08:-44:-38 **15** MS. CLEARY: That's correct, Your Honor.

-08:-44:-38 **16** THE COURT: Through the miracle of contemporary and

00:01:40 **17** electronic communication, he actually can hear and see us, or at

-08:-44:-38 **18** least the lawyers. We can see him. And he will be testifying.

-08:-44:-38 **19** It's my understanding although he knows some English, his native

-08:-44:-38 **20** language is Jordanian and/or Arabic.

00:01:57 **21** MS. CLEARY: Arabic.

00:02:00 **22** THE COURT: In a moment, via long distance, Amy

-08:-44:-38 **23** will swear in both the interpreter and then have Mr. Amawi

00:02:07 **24** either swear or affirm to tell the truth just as if he were

-08:-44:-38 **25** here. You can consider his testimony just as if he were here

00:02:18 **1** along with all the other evidence in the case. I should note,
-08:-44:-38 **2** though, and I think it's probably appropriate that I do so, that
-08:-44:-38 **3** because he's not physically located in this country, that part
00:02:34 **4** of the oath that refers to the pains and penalties of perjury
-08:-44:-38 **5** may have -- it would not have any lesser significance for a
-08:-44:-38 **6** witness who's outside the jurisdiction of this country, but I
00:02:50 **7** think it's appropriate that I call it to your attention. You
-08:-44:-38 **8** can, if you wish, take that into consideration in evaluating his
00:02:56 **9** testimony.

00:02:59 **10** Nonetheless, he will undertake, as every other
00:03:03 **11** witness does, of either swearing or affirming to tell the truth
-08:-44:-38 **12** and nothing but truth. We'll presume that he will take that
00:03:12 **13** oath to heart.

00:03:17 **14** Anything further before we proceed?

-08:-44:-38 **15** MR. SOFER: No, Judge.

00:03:20 **16** MS. CLEARY: No, Your Honor.

00:03:24 **17** THE COURT: I should also indicate present in the
-08:-44:-38 **18** room, according to my understanding, are an interpreter -- in a
-08:-44:-38 **19** moment I'll ask that individual to identify himself or
00:03:36 **20** herself -- also present is an attorney associated with the
-08:-44:-38 **21** defender's office, Ms. Donna Grill. So you may hear her voice
-08:-44:-38 **22** from time to time. I believe the only person whom you'll see
-08:-44:-38 **23** will be Mr. Amawi.

-08:-44:-38 **24** So, Ms. Grill, I would ask that the interpreter

00:03:56 **25** stand behind Mr. Amawi. Can the interpreter sit right where

00:04:05 **1** you're sitting now?

00:04:07 **2** MS. GRILL: Your Honor we don't have an interpreter

00:04:10 **3** here. The interpreter is in Toledo.

-08:-44:-38 **4** THE COURT: Didn't realize that. It would be

-08:-44:-38 **5** really helpful if that interpreter could stand next to Amy, if

-08:-44:-38 **6** that's okay. That would be helpful, I think.

00:04:32 **7** THE JUROR: Will we have visual?

00:04:37 **8** THE COURT: Ma'am, if you'll come forward, please.

00:04:45 **9** Where do you want the interpreter to stand?

-08:-44:-38 **10** MS. CLEARY: Judge, they're going to stand by the

00:04:51 **11** podium.

00:05:01 **12** (Interpreters are sworn).

00:05:05 **13** THE COURT: Now, if you will first, each of you --

00:05:09 **14** you're going to be switching off, I take it.

00:05:18 **15** Ms. Cleary, if you'll come forward.

-08:-44:-38 **16** My name is Judge Carr. And your name is?

-08:-44:-38 **17** THE INTERPRETER: Nada Kourdi Ammoun.

-08:-44:-38 **18** THE COURT: Will you spell your name for the court

00:05:26 **19** reporter.

00:05:27 **20** THE INTERPRETER: My first name is N-A-D-A. My

-08:-44:-38 **21** middle name is K-O-U-R-D-I. My last name is A-M-M-O-U-N.

-08:-44:-38 **22** THE COURT: Sir, your name is?

00:05:39 **23** THE INTERPRETER: Ramadan. R-A-M-A-D-A-N. My

-08:-44:-38 **24** last name is Alhaddad, A-L-H-A-D-D-A-D.

00:05:53 **25** THE COURT: You are fluent in both Arabic and

-08:-44:-38 **1** English; is that correct?

00:05:57 **2** THE INTERPRETER: I am, Your Honor.

-08:-44:-38 **3** THE COURT: How has that come to be so?

00:06:01 **4** THE INTERPRETER: I'm sorry, how?

00:06:04 **5** THE COURT: How has that come to be so?

00:06:06 **6** THE INTERPRETER: I got a bachelor degree in

-08:-44:-38 **7** English literature from Lebanon in 1995. Then I joined the

-08:-44:-38 **8** United States WHO, which is World Health Organization, as an

00:06:19 **9** interpreter. I worked for the United Nations for about four

00:06:22 **10** years. Then I came to the United States and started my own

-08:-44:-38 **11** business in interpretation.

-08:-44:-38 **12** THE COURT: I'm going to have to ask you to speak

-08:-44:-38 **13** much more slowly.

00:06:31 **14** THE INTERPRETER: I will, Your Honor.

-08:-44:-38 **15** THE COURT: From time to time I may interrupt you

-08:-44:-38 **16** and say slow down.

-08:-44:-38 **17** So you are confident you're fully capable of

00:06:41 **18** translating statements made in English into Arabic and from

00:06:44 **19** Arabic statements made in Arabic into English?

-08:-44:-38 **20** THE INTERPRETER: Yes, I am, Your Honor.

00:06:49 **21** THE COURT: And, sir?

00:06:51 **22** THE INTERPRETER: I don't have as impressive a

00:06:54 **23** resumé as she does, but I'm from Libya, which is an Arabic

-08:-44:-38 **24** country, so I was born and raised in Libya, went to high school.

-08:-44:-38 **25** I went to England to study in England. That's where I went to

00:07:05 **1** college. And so Arabic is my mother tongue. I speak fluent,
-08:-44:-38 **2** read, and write Arabic. As for English, I've lived in this
-08:-44:-38 **3** country over 22 years. I've been -- worked for the last two
-08:-44:-38 **4** years in federal court in Cincinnati, the municipal court in
-08:-44:-38 **5** Dayton, and their juvenile court and all kinds of courts in the
-08:-44:-38 **6** Dayton area. I work for Voca Link, which is a language service
-08:-44:-38 **7** company.

-08:-44:-38 **8** THE COURT: Again, if you could speak slowly.

-08:-44:-38 **9** Who will be proceeding first?

00:07:53 **10** MR. ALHADDAD: I will start first.

00:07:57 **11** THE COURT: You will please explain to Mr. Amawi

00:08:01 **12** who you are, and what you just said, if you'll repeat that to

-08:-44:-38 **13** the best of your ability to do so. And inform him that in a

00:08:11 **14** moment he will be asked either to swear or affirm that he will

-08:-44:-38 **15** tell the truth and nothing but the truth during the course of

-08:-44:-38 **16** this testimony.

00:08:23 **17** THE INTERPRETER: May I proceed?

00:09:21 **18** (Discussion in Arabic).

00:09:43 **19** THE COURT: Okay. Will you please also tell him --

-08:-44:-38 **20** and from now on you should translate as directly and as

00:09:52 **21** literally as you can, okay. Will you tell him if he either

-08:-44:-38 **22** cannot understand, can't hear something because it's not audible

-08:-44:-38 **23** or clear, or if he doesn't understand the question that is being

00:10:25 **24** asked, he should indicate.

00:10:55 **25** And ask him will he do so.

00:11:01 **1** THE WITNESS: Yes.

00:11:03 **2** THE COURT: Now, Amy, if you'll swear the witness.

-08:-44:-38 **3** And translate what she is saying as she is saying it; you

00:11:15 **4** translate simultaneously?

00:11:19 **5** THE INTERPRETER: I can.

00:11:27 **6** (The witness was sworn by the clerk.)

00:11:55 **7** MR. SOFER: Can we have just one moment, please?

-08:-44:-38 **8** May we approach?

-08:-44:-38 **9** (Whereupon the following discussion was had at the

00:13:00 **10** bench outside the hearing of the jury:)

00:13:00 **11** MR. SOFER: I just wanted to ask the Court's

-08:-44:-38 **12** permission. We have our linguist near the courtroom. I wanted

-08:-44:-38 **13** to make sure that was okay. We didn't want to offend Your Honor

-08:-44:-38 **14** in any way, shape or form.

-08:-44:-38 **15** THE COURT: If you want the person at counsel

-08:-44:-38 **16** table, if there's any question about translation or whatever.

-08:-44:-38 **17** MR. SOFER: That would be very helpful. Thank

00:13:05 **18** you.

00:13:05 **19** (End of side-bar discussion.)

00:13:09 **20** THE COURT: Ms. Cleary, you may proceed.

-08:-44:-38 **21** If you'll translate every single thing that is

-08:-44:-38 **22** said.

00:13:15 **23** THE INTERPRETER: Absolutely.

00:13:16 **24** MS. CLEARY: Thank you, Your Honor.

00:13:16 **25** (The following testimony was translated into

00:13:16 **1** English through an interpreter:)

00:13:37 **2** - - -

00:13:37 **3** ZAKI AMAWI, DIRECT EXAMINATION

00:13:46 **4** BY MS. CLEARY:

00:13:46 **5** **Q.** Good afternoon, Mr. Amawi. I'm Amy Cleary, one of the
00:13:26 **6** attorneys that is representing your son, Mohammad.

00:13:46 **7** Mr. Amawi, can you tell us where you are right now?

00:13:54 **8** **A.** I am right now in Amman in a video conference room.

00:14:07 **9** **Q.** Mr. Amawi, we have a translator here for your

-08:-44:-38 **10** convenience. So if it's easier for you to speak in Arabic,

00:14:14 **11** please feel free to do so.

00:14:22 **12** **A.** Thank you.

-08:-44:-38 **13** **Q.** Mr. Amawi, so that we can translate accurately for you,

00:14:27 **14** I'm going to ask that you speak no more than two sentences or so

-08:-44:-38 **15** at a time.

00:14:47 **16** **A.** Okay, I will.

-08:-44:-38 **17** **Q.** And finally, Mr. Amawi, if you don't understand the

-08:-44:-38 **18** question that's asked, please feel free to let me know.

00:15:10 **19** **A.** Okay.

-08:-44:-38 **20** **Q.** Mr. Amawi, can you tell us how you're related to

00:15:15 **21** Mohammad Amawi?

00:15:22 **22** **A.** I am the father of Mohammad Amawi.

00:15:25 **23** **Q.** Mr. Amawi, I'd like to talk to you then a little bit

-08:-44:-38 **24** about your family.

00:15:39 **25** **A.** I have my wife and five kids.

-08:-44:-38 **1** Q. How long have you been married, sir?

00:15:53 **2** A. I've been married since 1975.

00:15:56 **3** Q. Mr. Amawi, could we talk a little bit about each of your

00:16:00 **4** children?

00:16:09 **5** A. I have five kids, and the first one died when he was

-08:-44:-38 **6** nine months old.

00:16:26 **7** And my other son is Malik. He's a mechanical

00:16:31 **8** engineer in Saudi Arabia with his wife. He got married six

00:16:41 **9** months ago.

00:16:49 **10** Mohammad, who was born in the U.S., he was born

00:16:55 **11** January 18, 1981.

00:17:04 **12** Q. Are you okay, sir?

00:17:24 **13** A. Mohammad was born in America in 1980 in Walter Reed

-08:-44:-38 **14** Hospital.

00:17:38 **15** And Malik was born in 1981 in June -- July, I'm

00:17:45 **16** sorry, 1981.

00:17:52 **17** And Abdullah was born April 19, '86, in Abu Dabai,

00:18:15 **18** that's UAE.

00:18:18 **19** And Bara, he's the youngest, he was born in Jordan.

00:18:25 **20** He's in ninth grade.

00:18:31 **21** Abdullah is now currently attending technical

00:18:36 **22** university. He's in his third year. He's studying genetics.

-08:-44:-38 **23** This is for my family, as for me --

-08:-44:-38 **24** Q. I'm going to stop you right there, sir. It might be

-08:-44:-38 **25** easier for the jury to follow if you answer the questions that I

- 08:-44:-38 **1** ask first.
- 00:19:21 **2** **A.** Okay.
- 00:19:23 **3** **Q.** Mr. Amawi, can you tell me where you're currently
- 08:-44:-38 **4** living?
- 00:19:29 **5** **A.** I live in Irbid.
- 00:19:37 **6** **Q.** And, Mr. Amawi, can you tell us how close Irbid is to
- 00:19:44 **7** Syria?
- 00:19:52 **8** **A.** If we travel by car from where I live, from my house to
- 08:-44:-38 **9** the Syrian border, it's about 25 minutes.
- 00:20:12 **10** **Q.** How close is Irbid, where you live, to Iraq?
- 00:20:24 **11** **A.** If you're driving by car it's about four or five hours.
- 00:20:33 **12** **Q.** Mr. Amawi, are you currently employed?
- 00:20:41 **13** **A.** I'm a retired officer.
- 00:20:44 **14** **Q.** Where were you an officer, sir?
- 00:20:53 **15** **A.** I was in the Royal Mechanical Corps.
- 00:21:01 **16** THE WITNESS: (IN ENGLISH) Engineering.
- 00:21:02 **17** **A.** In the engineering corps.
- 00:21:02 **18** BY MS. CLEARY:
- 00:21:04 **19** **Q.** How long were you in the Engineering Corps?
- 00:21:16 **20** **A.** I was one year as a cadet, and the rest of my service
- 08:-44:-38 **21** was in the Mechanical Engineering Corps.
- 00:21:40 **22** **Q.** In total, sir, how long did you serve in the Army?
- 00:21:44 **23** **A.** 18 years total.
- 00:21:48 **24** **Q.** Sir, did you ever work anywhere else other than with the
- 00:21:51 **25** Army?

00:22:00 **1** **A.** After I retire, in the end of 1983, I work for a marble
-08:-44:-38 **2** and stone factory. Then I went to the Emirates in 1985, and I
-08:-44:-38 **3** work as an officer and trainer for the Emirate Forces.

00:22:45 **4** THE WITNESS: (IN ENGLISH) In the engineering
00:22:47 **5** school.

00:22:50 **6** BY MS. CLEARY:

00:22:50 **7** **Q.** Thank you, sir. When you were in the Army, were you
-08:-44:-38 **8** ever stationed in the United States?

00:23:05 **9** **A.** Yes.

00:23:10 **10** **Q.** During what years were you stationed in the U.S.?

00:23:14 **11** **A.** September 1975, September '81.

00:23:26 **12** **Q.** And when you were stationed in the U.S. is that when
-08:-44:-38 **13** Mohammad, your son, was born?

00:23:35 **14** **A.** Yes.

00:23:37 **15** **Q.** Mr. Amawi, I'd like to talk about Mohammad as he was a
-08:-44:-38 **16** young man, a young adult.

00:23:52 **17** MR. SOFER: Objection as to relevance.

00:23:55 **18** THE COURT: Overruled.

00:23:58 **19** BY MS. CLEARY:

00:23:58 **20** **Q.** Mr. Amawi, did you ever speak with Mohammad about his
00:24:01 **21** plans for the future?

00:24:11 **22** MR. SOFER: Objection, relevance.

00:24:20 **23** THE COURT: I would tend to agree. I'm going to
-08:-44:-38 **24** sustain the objection.

00:24:26 **25** MS. CLEARY: May we approach?

1 One minute, Mr. Amawi.

2 (Whereupon the following discussion was had at the
3 bench outside the hearing of the jury:)

4 MS. CLEARY: One of the things that's important to
5 the defense in this case is what Mr. Amawi's plans are. The
6 government is telling us there was evidence that it thinks Mr.
7 Amawi's plans were to go and be a suicide bomber. I think it's
8 important that this jury understand that Mr. Amawi had plans
9 other than what the government is insinuating he did.

10 THE COURT: This is offered for the truth of the
11 matter asserted. It's hearsay.

12 MS. CLEARY: Well, under 803(3). If Mr. Amawi
13 expressed his plans to his father, I think that would be
14 admissible. My question is whether Mr. Amawi discussed with
15 Mohammad his plans.

16 THE COURT: First of all, there's no timeframe.
17 It's one thing when you're in fifth grade you say I want to be a
18 whatever. Or during the course of your visit while he was
19 there, and that then may be pertinent.

20 MR. SOFER: That's the exact nature of the
21 government's objection. Just to try to maybe -- if there is
22 within the period of the conspiracy some statement, maybe.

23 THE COURT: Get a timetable and the circumstances
24 of the conversation. Pretty rudimentary.

25 (End of side-bar discussion.)

00:26:28 **1** THE COURT: I sustained the objection. So do not
00:26:32 **2** translate the answer. However, Ms. Cleary can rephrase the
00:26:47 **3** question and continue.

00:26:56 **4** MS. CLEARY: Thank you, Your Honor.
00:26:59 **5** BY MS. CLEARY:

00:27:00 **6** Q. Mr. Amawi, did you ever live in the United States for
-08:-44:-38 **7** any period of time?

00:27:11 **8** A. Yes.

00:27:12 **9** Q. During what periods of time?

00:27:21 **10** A. '79 to '81. Before, too.

-08:-44:-38 **11** Q. Did you ever have any long visits in the United States?

00:27:38 **12** A. 1986 I came to visit. If my memory serves me right, in
00:27:54 **13** 1989 or 1999 -- I'm sorry 1998 or 1999.

00:28:01 **14** Q. In 1999, sir, where were you staying in the United
00:28:13 **15** States?

00:28:13 **16** A. In the beginning it was in North Carolina.

00:28:17 **17** Q. While you were in North Carolina were any of your family
-08:-44:-38 **18** members with you in 1999?

00:28:30 **19** A. Yeah, my son Mohammad came and he was in Houston, also
00:28:40 **20** my son Ahmed.

-08:-44:-38 **21** Q. When Mohammad came to visit, did he stay with you very
-08:-44:-38 **22** long in North Carolina?

00:28:56 **23** A. Not very long. He just came to the States, so... I

00:29:02 **24** think he was about 18 years old. After four or five months he

00:29:18 **25** start saying that he wanted to go home to Jordan.

00:29:21 **1** Q. Did you want Mohammad to go home to Jordan?

00:29:28 **2** A. No.

-08:-44:-38 **3** Q. Why not?

00:29:31 **4** A. Because I thought that he would have a much better

00:29:43 **5** opportunity, a better future if he had stayed in the United

00:29:48 **6** States.

00:29:48 **7** THE COURT: Excuse me. If he responds in English,

-08:-44:-38 **8** you should obviously pick up the English as well as the

00:30:10 **9** translation.

00:30:22 **10** BY MS. CLEARY:

00:30:22 **11** Q. Mr. Amawi, before I talk further about that, it might be

00:30:30 **12** easier if you speak in your native language of Arabic.

00:30:41 **13** When Mohammad wanted to leave to go to Jordan, did

-08:-44:-38 **14** you do anything to try to stop him?

00:31:04 **15** A. I spend about a month trying to persuade him not to go

00:31:17 **16** back. But he insisted he would go back and get good grades.

-08:-44:-38 **17** And that he wanted to go back to Jordan to finish his studies.

00:31:35 **18** And if I remember right, we were in the kitchen talking. And I

-08:-44:-38 **19** was very upset. I broke a bunch of plates, dishes. Because

-08:-44:-38 **20** that was just my -- because I couldn't do anything else to

00:32:14 **21** persuade him. And then I told him we should sit down and

-08:-44:-38 **22** discuss this later. I brought a piece of paper, a notebook.

-08:-44:-38 **23** And I told him that if he go back to Jordan, he will not get

-08:-44:-38 **24** better grades. And the only reason you want to go back is

00:32:53 **25** because you miss your friends and your buddies. And you're

-08:-44:-38 **1** still young. And that you be back here again. And you will
-08:-44:-38 **2** just waste a year or two or more from your life. And I want
00:33:28 **3** you to sign this paper so in the future I can show it to you and
-08:-44:-38 **4** remind you.
00:33:32 **5** MR. SOFER: Your Honor, I object. No relevance
-08:-44:-38 **6** here.
00:33:37 **7** THE COURT: I will permit the testimony as evidence
-08:-44:-38 **8** that he made those statements, but not for the truth of the
-08:-44:-38 **9** matter asserted. The objection is otherwise overruled.
00:34:14 **10** MS. CLEARY: Thank you, Your Honor.
00:34:16 **11** BY MS. CLEARY:
-08:-44:-38 **12** Q. Mr. Amawi, do you still have that sheet of paper that
-08:-44:-38 **13** you and Mohammad signed?
00:34:31 **14** A. It's still in the possession of his brother, Ahmed,
-08:-44:-38 **15** because he took it from him because -- his brother took it from
00:34:42 **16** him and hid it.
00:34:46 **17** MR. SOFER: Your Honor, can we approach?
00:34:48 **18** (Whereupon the following discussion was had at the
00:39:17 **19** bench outside the hearing of the jury:)
00:39:17 **20** THE COURT: How much longer on this? It's very
-08:-44:-38 **21** questionable.
-08:-44:-38 **22** MS. CLEARY: 15, 20 minutes.
-08:-44:-38 **23** THE COURT: Not how much longer with him but on
-08:-44:-38 **24** this line of questioning.
-08:-44:-38 **25** MS. CLEARY: The area I'm going to go into next is

-08:-44:-38 **1** when Mohammad came to the United States in 2000, which is what
-08:-44:-38 **2** sparks the rest of the relevant conduct in this case.

-08:-44:-38 **3** THE COURT: Okay.

-08:-44:-38 **4** MR. SOFER: The thing I wanted to bring to Your
-08:-44:-38 **5** Honor's attention is our translator is saying there's been two
-08:-44:-38 **6** missed translations already. One of them was the witness,
-08:-44:-38 **7** according to our translator, said instead of he couldn't
-08:-44:-38 **8** persuade him when he was talking about staying or no, he said he
-08:-44:-38 **9** couldn't -- our translator said he said, "I couldn't hit him."

-08:-44:-38 **10** And with respect to this piece of paper, our translator says
-08:-44:-38 **11** that the words the witness actually with spoke are: Amr stole
-08:-44:-38 **12** it from him as opposed to he gave it to Amr. I bring this to
-08:-44:-38 **13** the Court's attention only because...

-08:-44:-38 **14** THE COURT: But I think this is something you can
-08:-44:-38 **15** ask on cross. And why don't we let the interpreter come over
-08:-44:-38 **16** here.

-08:-44:-38 **17** THE COURT: This is Mr. Sofer, the government
-08:-44:-38 **18** attorney. They have a translator here, too, and why don't you
-08:-44:-38 **19** tell him.

-08:-44:-38 **20** MR. SOFER: Our translator told us that there have
-08:-44:-38 **21** been two things that were questionable from what he said. And,
-08:-44:-38 **22** Judge, for the record, we don't have to do it this way. I just
-08:-44:-38 **23** wanted to make sure.

-08:-44:-38 **24** THE COURT: I just wanted to let him know.

-08:-44:-38 **25** MR. SOFER: The first one was when the witness was

-08:-44:-38 **1** saying he couldn't persuade his son to stay in America. Our

-08:-44:-38 **2** translator said that the actual literal translation of what he

-08:-44:-38 **3** said was he couldn't hit him. He said he broke the dishes, but

-08:-44:-38 **4** he couldn't hit him.

-08:-44:-38 **5** THE INTERPRETER: Okay.

-08:-44:-38 **6** MR. SOFER: The second one.

-08:-44:-38 **7** THE INTERPRETER: That was correct. That he said

-08:-44:-38 **8** he didn't hit him. So it's my --

-08:-44:-38 **9** MR. SOFER: The second one is that he says that Amr

-08:-44:-38 **10** Amawi has the piece of paper. He said the literal translation

-08:-44:-38 **11** is Amr stole it from him.

-08:-44:-38 **12** THE INTERPRETER: That is true also.

-08:-44:-38 **13** THE COURT: Translate as literally as you can.

-08:-44:-38 **14** THE INTERPRETER: Okay.

-08:-44:-38 **15** THE COURT: Even if it might not make sense. As

-08:-44:-38 **16** literally -- If he says, "X", don't say he said almost X or Y.

-08:-44:-38 **17** THE INTERPRETER: I understand.

-08:-44:-38 **18** THE COURT: Take as much time as you need.

-08:-44:-38 **19** THE INTERPRETER: No problem.

-08:-44:-38 **20** THE COURT: And if you want to have him go back and

-08:-44:-38 **21** say --

-08:-44:-38 **22** MR. SOFER: Either. We can go back. It's up to

-08:-44:-38 **23** Counsel how they want to do this. I wanted to bring it to the

-08:-44:-38 **24** Court's attention so it doesn't compound itself.

-08:-44:-38 **25** THE COURT: I agree. That's why I asked the

-08:-44:-38 **1** translator to come over.

-08:-44:-38 **2** THE INTERPRETER: It's my mistake. Because I said

-08:-44:-38 **3** I shouldn't think like that. It's relevant. I mean to me I

-08:-44:-38 **4** didn't think it was a big deal.

-08:-44:-38 **5** THE COURT: It is.

-08:-44:-38 **6** THE INTERPRETER: In the Arabic culture, this is,

-08:-44:-38 **7** you know, your kids hit.

-08:-44:-38 **8** MR. SOFER: This is what we're concerned about.

-08:-44:-38 **9** THE COURT: So --

-08:-44:-38 **10** MR. SOFER: So either counsel should fix it or I'll

-08:-44:-38 **11** fix it in my cross-examination or not.

-08:-44:-38 **12** THE INTERPRETER: I apologize to all of you.

-08:-44:-38 **13** MR. SOFER: There's nothing to apologize for.

-08:-44:-38 **14** THE COURT: So I would suggest maybe you ask him to

-08:-44:-38 **15** come back up and redo it.

-08:-44:-38 **16** MS. CLEARY: I will.

-08:-44:-38 **17** MR. SOFER: Judge, I just want to lodge a

-08:-44:-38 **18** continuing objection to this line of questioning which I think

-08:-44:-38 **19** has zero relevance.

-08:-44:-38 **20** THE COURT: We're moving on. I've ruled.

-08:-44:-38 **21** (End of side-bar discussion.)

00:39:21 **22** MR. SOFER: Judge, I have one more matter brought

00:39:25 **23** to my attention.

00:39:26 **24** (Whereupon the following discussion was had at the

00:41:37 **25** bench outside the hearing of the jury:)

00:41:37 **1** MR. SOFER: I was told if you watch the video during
-08:-44:-38 **2** the sidebar Counsel is talking to the witness. I don't know
-08:-44:-38 **3** what that's about, but I would caution and ask for her not to do
-08:-44:-38 **4** that for obvious reasons.
-08:-44:-38 **5** THE COURT: I'm happy to do that. I'm sure she's
-08:-44:-38 **6** saying -- I agree.
-08:-44:-38 **7** MS. CLEARY: Do you want me to say something to Ms.
-08:-44:-38 **8** Grill?
-08:-44:-38 **9** THE COURT: Yes.
-08:-44:-38 **10** Just so you understand, translate as literally as
-08:-44:-38 **11** you can, exactly, okay?
-08:-44:-38 **12** THE INTERPRETER: I will.
-08:-44:-38 **13** THE COURT: And slowly.
-08:-44:-38 **14** THE INTERPRETER: I'll do my best, Your Honor.
-08:-44:-38 **15** THE COURT: It's hard for Tracy and the jurors.
-08:-44:-38 **16** MS. CLEARY: Your Honor, would it be possible to
-08:-44:-38 **17** speak to Ms. Grill outside the presence of the jury?
-08:-44:-38 **18** THE COURT: Yeah, we should.
-08:-44:-38 **19** MR. SOFER: Hopefully we won't have any other
-08:-44:-38 **20** sidebars.
-08:-44:-38 **21** MS. CLEARY: I'd like to address -- one of things I
-08:-44:-38 **22** want to go into is when Mr. Amawi was here and then deported
-08:-44:-38 **23** from here, I was going to go into that. I'm sure the
-08:-44:-38 **24** government will go into it on its cross. If the government's
-08:-44:-38 **25** not going to go into it, I don't need to do that.

-08:-44:-38 **1** MR. SOFER: You'd better go into it.

-08:-44:-38 **2** (End of side-bar discussion.)

00:41:49 **3** THE COURT: Ms. Grill, I'd suggest that during our

-08:-44:-38 **4** sidebars that you try to refrain from engaging in conversation

-08:-44:-38 **5** with Mr. Amawi, okay. I'm sure there's nothing untoward

00:42:03 **6** occurring, but just by way of caution.

-08:-44:-38 **7** Ms. Cleary, you may resume.

00:42:11 **8** Sir, if you can translate what I just said to Ms.

00:42:14 **9** Grill. In other words, everything should be translated.

00:42:43 **10** Okay. You may continue.

00:42:47 **11** BY MS. CLEARY:

00:42:48 **12** Q. Mr. Amawi, there's a couple issues you testified about

-08:-44:-38 **13** that we need to clarify.

00:43:02 **14** A. Okay.

00:43:03 **15** Q. When you were telling the story about the notebook paper

-08:-44:-38 **16** and how you were upset when you thought that Mohammad was going

-08:-44:-38 **17** to return to Jordan, that you broke dishes. It is accurate to

00:43:34 **18** say that when you threw the dishes that you testified that you

-08:-44:-38 **19** did not hit Mohammad with the dishes?

00:43:51 **20** A. It's just the way of relieving anger, by breaking

00:44:00 **21** dishes. Because I was very upset.

00:44:05 **22** Q. And just one other area that we need to review very

00:44:09 **23** quickly. When you said that Mohammad took -- that Amr took the

00:44:17 **24** paper from you that you and Mohammad signed, am I correct that

-08:-44:-38 **25** you testified that Amr had stolen that paper from you?

00:44:33 **1** A. No. No. No, he had it. He had it.

00:44:42 **2** Q. Thank you, sir. After Mohammad returned to Jordan in

-08:-44:-38 **3** 1999, did he then again return to the United States after that?

00:45:00 **4** A. After about a year. He found out that he was better

-08:-44:-38 **5** back -- by coming back to America because he tried America, and

-08:-44:-38 **6** he tried Jordan.

00:45:16 **7** Q. So would that be the year 2000?

00:45:25 **8** A. I think. I mean, if I remember right. I think

00:45:29 **9** it's --

00:45:32 **10** Q. Do you know where Mohammad returned to when he did

-08:-44:-38 **11** return?

00:45:48 **12** A. He went back to Houston, I think, because his aunt lived

00:45:55 **13** in Houston. And then I came to North Carolina. Then I told

-08:-44:-38 **14** him to come to see me because there was an opportunity, to go to

00:46:16 **15** the University of Toledo with his brother Ahmed.

00:46:22 **16** Q. Did you ever visit Mohammad when he was in Toledo?

00:46:32 **17** A. We used to live in the same apartment.

00:46:35 **18** Q. Do you remember what year you last visited him in

-08:-44:-38 **19** Toledo?

00:46:52 **20** A. We lived together in the Almozrouei apartment. We were

00:46:56 **21** eating together, sleeping together. We play Play Station

-08:-44:-38 **22** together.

00:47:03 **23** Q. And how long did you stay in the U.S. that time, sir?

00:47:16 **24** A. It's about a year and four or five months.

-08:-44:-38 **25** Q. Would you explain the circumstances under which you left

-08:-44:-38 **1** the U.S. at that time?

00:47:29 **2** **A.** Is there a time for me to explain?

00:47:36 **3** **Q.** Well, did you leave the U.S. in 2002?

00:47:49 **4** **A.** I left the U.S. in December, 26, 2001.

00:47:56 **5** **Q.** Thank you for correcting me. Do you remember what the

-08:-44:-38 **6** circumstances were under which you left?

00:48:10 **7** **A.** During September I was there. And I took a work

00:48:19 **8** permit, and my son Mohammad applied for me with the immigration

00:48:28 **9** services, and they give me a work permit. And I stayed there

-08:-44:-38 **10** for about a year, and then I left. After September 11, if I

00:48:55 **11** remember, I think. After September 11, immigration, they

-08:-44:-38 **12** became more diligent. They start more, you know, like put

00:49:36 **13** people under more scrutiny.

-08:-44:-38 **14** **Q.** Were you contacted by immigration in 2001?

00:49:51 **15** **A.** I went to see them twice, and they give me the work

-08:-44:-38 **16** permit. That was before September 11. After September, paper

-08:-44:-38 **17** took longer time. I required my lawyer. My lawyer's name was

-08:-44:-38 **18** Denise. She works as an immigration attorney. I contacted

-08:-44:-38 **19** her. And I told her that my paper's taking very long. She

00:51:05 **20** told me --

00:51:19 **21** **Q.** I'm going to stop you. It's not necessary for you to

00:51:25 **22** tell us what your immigration attorney told you.

00:51:37 **23** **A.** She asked me to go to the immigration office. I went

-08:-44:-38 **24** there to see them. And I was told that I broke the law and

-08:-44:-38 **25** that I was under house arrest, and they going to deport. And

-08:-44:-38 **1** they deport me outside the U.S.

00:52:06 **2** **Q.** Sir, did you understand why you were told that you broke

-08:-44:-38 **3** the law? Do you understand what law they said you broke?

00:52:25 **4** **A.** They tried to explain. But there was no interpreter.

00:52:30 **5** And then things were very difficult. And then I went home.

00:52:39 **6** **Q.** Do you remember exactly when you were deported?

00:52:46 **7** THE WITNESS: Yes, now.

00:52:53 **8** **A.** December 26, 2001.

00:52:55 **9** BY MS. CLEARY:

00:52:55 **10** **Q.** And that was the last time you were in the United

00:53:01 **11** States?

00:53:01 **12** **A.** That was the last time.

-08:-44:-38 **13** **Q.** I'd like to turn then, sir, to the year 2005. Did your

00:53:14 **14** son Mohammad visit you in 2005?

00:53:22 **15** **A.** Yes, he visited us in 2005 in August.

-08:-44:-38 **16** **Q.** Did he bring anyone with him?

00:53:42 **17** **A.** He brought a friend of his. His name was Darren

00:53:56 **18** Griffin. In Arabic he had the name as Bilal. He was -- his

-08:-44:-38 **19** Arabic name was Bilal.

-08:-44:-38 **20** **Q.** Is that the first time that you met Darren Griffin?

-08:-44:-38 **21** **A.** Yes, that was the first time I ever seen him.

-08:-44:-38 **22** **Q.** When you met Darren Griffin did he give you any business

00:54:22 **23** cards?

00:54:29 **24** **A.** Yes, he gave me one, and I still have it at home.

-08:-44:-38 **25** **Q.** Do you remember what that card said?

00:54:50 **1** A. I think in English it says something like security.

00:54:59 **2** And it says something about training people for security.

00:55:03 **3** Q. Sir, how long did Darren Griffin stay with you?

00:55:18 **4** A. The first time we hosted him at our house, the first

-08:-44:-38 **5** time he stayed with us in the house in a separate bedroom. And

-08:-44:-38 **6** then my son Mohammad stayed there. To make him more comfortable

-08:-44:-38 **7** we give him an apartment with three bedrooms.

00:56:02 **8** Q. And you did that, sir?

00:56:09 **9** A. And we felt very comfortable with him.

00:56:13 **10** Q. Did you see Darren Griffin very often during that visit?

00:56:28 **11** A. The first three days he was having breakfast, lunch, and

-08:-44:-38 **12** dinner with us. And we consider him as one of our family.

00:56:47 **13** And we treat him as if he was one of the family. And the rest

-08:-44:-38 **14** of the time he was there, he was having lunch with us

00:56:59 **15** frequently.

00:57:07 **16** Q. Mr. Amawi, during that time, during that visit in August

00:57:11 **17** and September of 2005, did your son Mohammad express any plans

00:57:21 **18** he had for a business?

00:57:36 **19** A. Yeah, Mohammad said he wanted to open his own business.

00:57:40 **20** Q. Did he tell you what kind of business?

00:57:49 **21** A. It was something related to computers.

00:57:52 **22** Q. Did you observe Mohammad taking any steps to help

-08:-44:-38 **23** prepare to start that business?

00:58:07 **24** A. Yes, we would go with him sometimes with his mom in the

-08:-44:-38 **25** car and look for a place that would be suitable, like a shop for

-08:-44:-38 **1** fixing and selling computers.

00:58:33 **2** **Q.** Mr. Amawi, was that September -- was that the only time

00:58:44 **3** Darren Griffin visited your family?

00:58:53 **4** **A.** No, I think he came back again in December.

-08:-44:-38 **5** **Q.** And did he again stay with your family at that time?

00:59:04 **6** **A.** Once again we provided him with an apartment that he

-08:-44:-38 **7** stayed in.

00:59:09 **8** **Q.** At that time, in December, was Mohammad still planning

00:59:12 **9** to go forward with his computer business?

00:59:22 **10** **A.** He was more -- he was planning on opening a business in

-08:-44:-38 **11** Jordan, and then living in Jordan as well.

00:59:37 **12** **Q.** And how did you feel about Mohammad starting his own

-08:-44:-38 **13** business?

00:59:45 **14** MR. SOFER: Objection to relevance.

00:59:50 **15** THE COURT: I would agree. Sustained.

00:59:58 **16** MS. CLEARY: Thank you, Your Honor.

01:00:05 **17** BY MS. CLEARY:

01:00:06 **18** **Q.** Sir, during the course of Darren Griffin's visits to

-08:-44:-38 **19** your home, did he give you or your family any gifts?

01:00:18 **20** **A.** Yes.

-08:-44:-38 **21** **Q.** Can you explain what he may have given you?

01:00:28 **22** **A.** Water cooler, and it was worth 160, 100 to 160 dollars.

01:00:50 **23** And he insisted on giving me a cell phone, which is about 150

-08:-44:-38 **24** dollars, worth 150 dollars. And he wanted to open a computer

-08:-44:-38 **25** business and also a car dealership, and he gave Mohammad and my

-08:-44:-38 **1** wife, Mohammad's mom, 2000 dollars -- travellers check, 2000
-08:-44:-38 **2** dollars, because I had a Jeep. He had a car, a Jeep. And
-08:-44:-38 **3** Mohammad, my son, give me 3,000 dollars as to use the car for
-08:-44:-38 **4** business.

01:02:14 **5** **Q.** Sir, did he also give your family a satellite phone?

01:02:31 **6** **A.** He tried to give it to me, and I said I can't use it.

01:02:35 **7** I don't know how to use it. I don't have a company, so I told
01:02:44 **8** him I would give it to Mohammad.

01:02:49 **9** **Q.** Mr. Amawi, is your son Mohammad engaged?

01:03:00 **10** **A.** Mohammad, in 2005, he went to Egypt to get engaged to an
01:03:17 **11** Egyptian girl. She was a medical school graduate.

01:03:26 **12** **Q.** Mr. Amawi, have you met this girl that Mohammad plans to
01:03:31 **13** marry?

01:03:31 **14** MR. SOFER: Objection as to relevance.

01:03:38 **15** THE COURT: Sustained.

01:03:45 **16** MR. BRYAN: Can we approach?

01:03:48 **17** (Whereupon the following discussion was had at the
01:06:54 **18** bench outside the hearing of the jury:)

01:06:54 **19** MR. BRYAN: Your Honor, basically the crescendo of

-08:-44:-38 **20** the government's case, they introduced some photos of Mohammad

-08:-44:-38 **21** Amawi lying in a box that were taken in time in October of 2005.

-08:-44:-38 **22** They appear to have been taken in October of 2005. Based upon

-08:-44:-38 **23** that I think the government -- and also has based upon other

-08:-44:-38 **24** evidence that they've introduced throughout trial I think is

-08:-44:-38 **25** prepared to create or argue a theory to the jury that Mohammad

-08:-44:-38 **1** Amawi was taking the way of the Shehada; that is, a suicide
-08:-44:-38 **2** martyr, and he intended to commit suicide in the future. The
-08:-44:-38 **3** government is permitted to draw those references based upon mere
-08:-44:-38 **4** pictures that nobody knows when they were taken under what
-08:-44:-38 **5** circumstances they were taken. Whether they were goofing
-08:-44:-38 **6** around or what have you. At the very least we should be able
-08:-44:-38 **7** to present evidence that rebuts that idea, that inference that
-08:-44:-38 **8** Mohammad Amawi was suicidal at that time. The best evidence is
-08:-44:-38 **9** not only that he was engaged but that they were actually working
-08:-44:-38 **10** towards this marriage. And part of the Arabic culture requires
-08:-44:-38 **11** the marriage to be arranged. And what Mr. Amawi will testify
-08:-44:-38 **12** to is that he travelled or actually met her, I believe, in Saudi
-08:-44:-38 **13** Arabia -- met her personally, then he approved of Mohammad
-08:-44:-38 **14** marrying this young lady.

-08:-44:-38 **15** MR. SOFER: Judge, I didn't object when they asked
-08:-44:-38 **16** whether he was engaged. I think it's been established he was
-08:-44:-38 **17** engaged. How the arrangement were going, how far they went to
-08:-44:-38 **18** with the arrangements seems to be -- and it's particularly his
-08:-44:-38 **19** travel.

-08:-44:-38 **20** MS. CLEARY: I have two questions.

-08:-44:-38 **21** MR. SOFER: The issue is not if, even if I were to
-08:-44:-38 **22** concede this issue completely. The issue is whether Mohammad
-08:-44:-38 **23** Amawi was taking steps, not whether the father was taking steps
-08:-44:-38 **24** and traveling. That's not relevant.

-08:-44:-38 **25** THE COURT: I think it is because, for example, had

-08:-44:-38 **1** those steps not been taken, I think it would be an appropriate
-08:-44:-38 **2** line of inquiry to say you didn't do X, Y, or Z and that's
-08:-44:-38 **3** customary. Given the jurors' likely unfamiliarity with the
-08:-44:-38 **4** custom, I think it's appropriate to ask a couple questions about
-08:-44:-38 **5** it and the circumstances.

-08:-44:-38 **6** (End of side-bar discussion.)

01:06:58 **7** THE COURT: If you will please apologize for any
-08:-44:-38 **8** confusion he may have. I have changed my mind and he can
01:07:06 **9** answer the question. Tell him that.

01:07:12 **10** THE INTERPRETER: He can answer.

01:07:13 **11** THE COURT: Yes, but I'll have Ms. Cleary ask the
-08:-44:-38 **12** question again.

01:07:29 **13** Ms. Cleary will now ask the question again, and he
-08:-44:-38 **14** can answer.

01:07:39 **15** BY MS. CLEARY:

-08:-44:-38 **16** Q. Mr. Amawi, have you met the girl that Mohammad is
-08:-44:-38 **17** engaged to?

01:07:49 **18** A. Yes, I met her a month ago.

-08:-44:-38 **19** Q. Where did you meet her?

01:07:58 **20** MR. SOFER: Objection, Your Honor. The testimony
01:08:01 **21** is he met her a month ago.

01:08:11 **22** THE COURT: I will sustain the objection. But you
-08:-44:-38 **23** may continue.

01:08:21 **24** If you want to ask him had he met her previously,
-08:-44:-38 **25** that's fine. Can you translate that?

01:08:40 **1** Ms. Cleary you may ask that question.

-08:-44:-38 **2** BY MS. CLEARY:

01:08:44 **3** **Q.** Mr. Amawi, had you met the girl Mohammad plans to marry

01:08:47 **4** prior to a month ago?

01:09:00 **5** **A.** No.

01:09:02 **6** **Q.** Is it customary, sir, for Muslims to involve their

01:09:08 **7** parents in their marriage arrangements?

01:09:28 **8** **A.** Yes, we usually try to help and give our opinion. But

-08:-44:-38 **9** in the end it's up to the person.

01:09:36 **10** **Q.** Mr. Amawi, does Mohammad have your blessing to marry the

-08:-44:-38 **11** girl he's engaged to?

01:09:46 **12** **A.** Yes, I am completely -- I'm very okay with it.

01:09:54 **13** MS. CLEARY: Mr. Amawi, I don't have any further

-08:-44:-38 **14** questions for you, but the government attorney might have

-08:-44:-38 **15** questions to ask you.

-08:-44:-38 **16** Your Honor, would you like to break first?

01:10:13 **17** MR. SOFER: We'd request a couple minutes, Mr.

-08:-44:-38 **18** Amawi. We're going to take a short break.

-08:-44:-38 **19** If we could take a short break, that would be great

-08:-44:-38 **20** for the government.

01:10:25 **21** THE COURT: I'm sorry. I thought you said you had

01:10:29 **22** a couple questions that would take a couple minutes. Fine,

01:10:32 **23** we'll take a break.

01:10:39 **24** MS. CLEARY: Can we tell the witness how long, Your

-08:-44:-38 **25** Honor?

-08:-44:-38 **1** THE COURT: Probably about 15 minutes. And I
-08:-44:-38 **2** would ask him not to have any conversation about his testimony
01:11:02 **3** while it's still being taken.
01:11:14 **4** THE WITNESS: I will wait here, Your Honor.
01:30:03 **5** (Recess taken.)
-08:-44:-38 **6** THE COURT: I understand Ms. Cleary had a couple
-08:-44:-38 **7** more questions she wanted to ask. She may do so.
01:30:14 **8** And, ladies and gentlemen, you will note that they
-08:-44:-38 **9** have switched translators. The very simple explanation is
-08:-44:-38 **10** there are a few intellectual exercises or mental exercises that
-08:-44:-38 **11** really are more demanding than translation. It's not at all
01:30:37 **12** uncommon, particularly when it's -- the need to translate from
01:30:42 **13** one language to another is somewhat prolonged, for translators
01:30:47 **14** to switch back and forth.
01:30:51 **15** BY MS. CLEARY:
-08:-44:-38 **16** Q. Mr. Amawi, I'm here with a different translator right
01:30:55 **17** now. Her name is Nada Ammoun, and she will be helping me with
01:31:03 **18** just a few more questions.
01:31:09 **19** Mr. Amawi, can you hear me?
01:31:20 **20** THE INTERPRETER: Interpreter cannot hear. Can I
-08:-44:-38 **21** ask him again, Your Honor?
01:31:24 **22** THE COURT: Sure.
-08:-44:-38 **23** THE INTERPRETER: What's Nada? Yes, the
01:31:32 **24** translator. What is the translator? What is Nada?
01:31:37 **25** BY MS. CLEARY:

01:31:37 **1** Q. Mr. Amawi, Nada is the translator I have with me right

-08:-44:-38 **2** now.

01:31:46 **3** A. Yes, I do; I see you.

01:31:49 **4** Q. Mr. Amawi, I just have a few questions that I neglected

-08:-44:-38 **5** to ask when I was up here before.

01:32:00 **6** A. Go ahead.

-08:-44:-38 **7** Q. When you said that you had met Mohammad's fiancée' a

01:32:08 **8** month ago, were you aware of her in 2005?

01:32:23 **9** A. Yes, I used to talk to her on the internet and play with

-08:-44:-38 **10** her snookers on the internet.

-08:-44:-38 **11** Q. Are you referring to the game of snooker?

01:32:46 **12** A. It's like billiards, snookers.

01:32:51 **13** Q. Like billiards?

01:32:55 **14** A. Like billiard table. We call it snookers over here.

01:33:03 **15** THE INTERPRETER: Your Honor, can I ask him what he

01:33:05 **16** said?

-08:-44:-38 **17** THE COURT: Yes.

01:33:14 **18** A. I'm trying to explain to you what does it mean,

01:33:18 **19** snookers. It's a table with a bunch of balls.

01:33:23 **20** BY MS. CLEARY:

01:33:23 **21** Q. Thank you, sir.

01:33:28 **22** THE COURT: It's the same thing in English, at

-08:-44:-38 **23** least it was when I was in college. At least called snooker.

-08:-44:-38 **24** BY MS. CLEARY:

-08:-44:-38 **25** Q. I'd like to direct your attention between the 2003, 2004

01:33:41 **1** period of time when Mohammad was in Jordan.

01:33:53 **2** During that time had you or your family ever

01:33:58 **3** stopped Mohammad from entering Iraq?

01:34:08 **4** **A.** Yes.

01:34:10 **5** **Q.** And what was that in relation to?

01:34:23 **6** **A.** Mohammad likes work, and there was a car trade ship to

-08:-44:-38 **7** Iraq, cars business between Aqaba and Iraq.

01:34:37 **8** THE COURT: Excuse me. You translated it a bit

-08:-44:-38 **9** too quickly. Can you repeat the translation about the first

-08:-44:-38 **10** part of the answer?

-08:-44:-38 **11** THE INTERPRETER: Should I ask him again or just

-08:-44:-38 **12** translate it by myself?

-08:-44:-38 **13** THE COURT: Just translate it a little slower.

01:34:53 **14** THE WITNESS: Mohammad loves work. So there was a

01:34:56 **15** kind of business between Iraq and Jordan, a car business.

01:35:04 **16** BY MS. CLEARY:

01:35:04 **17** **Q.** Sir, this car business, what was your understanding of

-08:-44:-38 **18** its purpose?

01:35:12 **19** MR. SOFER: Objection. Hearsay.

-08:-44:-38 **20** THE COURT: Sustained.

01:35:27 **21** BY MS. CLEARY:

01:35:27 **22** **Q.** Let me ask you another question. Why did you stop

-08:-44:-38 **23** Mohammad from participating in the car business in Iraq?

01:35:43 **24** **A.** Because Iraq is in a big danger, and I used to have a

01:35:55 **25** friend who got killed on his way to Iraq. He was a retired

-08:-44:-38 **1** officer, exactly like me. His name is Ahmed Abdul.

01:36:13 **2** **Q.** Mr. Amawi, in relation to the car business, is that the

-08:-44:-38 **3** only time that you ever had to stop Mohammad from entering Iraq?

01:36:37 **4** **A.** This is the time when he asked to go to Iraq and we told

-08:-44:-38 **5** him do not go to Iraq because Iraq is in danger.

01:36:45 **6** **Q.** And, sir, is that the only time that you're aware of

-08:-44:-38 **7** that Mohammad tried to or had expressed a desire to go to Iraq?

01:37:04 **8** **A.** Mohammad -- that was the first one he asked to go to

01:37:09 **9** Iraq.

-08:-44:-38 **10** **Q.** And did he ever ask again?

01:37:13 **11** MR. SOFER: Objection.

01:37:15 **12** THE COURT: Overruled.

01:37:26 **13** THE INTERPRETER: Your Honor, should I translate

-08:-44:-38 **14** the objection to the witness?

-08:-44:-38 **15** THE COURT: No. That's quite all right. I

-08:-44:-38 **16** overruled it. And did he give an answer?

01:37:35 **17** THE INTERPRETER: He gave an answer but I did not

-08:-44:-38 **18** hear it all.

01:37:39 **19** THE COURT: Ask him to repeat the answer.

-08:-44:-38 **20** **A.** I will briefly say the answer. No.

-08:-44:-38 **21** MS. CLEARY: Thank you very much, sir. The

01:37:51 **22** government attorney will now ask you questions.

01:38:04 **23** - - -

01:38:04 **24** ZAKI AMAWI, CROSS-EXAMINATION

-08:-44:-38 **25** BY MR. SOFER:

-08:-44:-38 **1** Q. Good afternoon, Mr. Amawi.

01:38:20 **2** A. Good afternoon.

-08:-44:-38 **3** Q. What time is it over there in Jordan?

01:38:26 **4** A. 5:22.

01:38:33 **5** Q. I want to ask you a few questions and I'm going to ask

01:38:37 **6** you to try to answer my questions with yes or no answers,

-08:-44:-38 **7** please. If you don't understand the question, please let me

01:38:47 **8** know, okay?

01:38:53 **9** THE WITNESS: Okay.

01:38:54 **10** A. Okay.

01:38:55 **11** BY MR. SOFER:

01:38:55 **12** Q. I want to talk a little bit about your time here in the

-08:-44:-38 **13** United States. When you first came to the United States you

-08:-44:-38 **14** said that that was in -- I think you said September, 1979, until

01:39:07 **15** 1981?

01:39:10 **16** A. No.

01:39:14 **17** THE INTERPRETER: Can I get my notes, Your Honor,

-08:-44:-38 **18** because I need to write dates? Can I get my notes.

01:39:22 **19** THE COURT: Of course.

01:39:31 **20** THE INTERPRETER: Can I ask for the question again,

01:39:33 **21** please?

-08:-44:-38 **22** THE COURT: Sure. Mr. Sofer.

01:39:35 **23** BY MR. SOFER:

-08:-44:-38 **24** Q. The first time you came to the United States was in

-08:-44:-38 **25** September of 1979; is that correct?

01:39:45 **1** A. Yes.

01:39:47 **2** Q. And you came as a representative of the Jordanian

01:39:52 **3** government; is that correct?

01:40:03 **4** A. The Jordanian Army.

01:40:06 **5** Q. And that's part of the government in Jordan, correct?

01:40:13 **6** A. Correct.

01:40:14 **7** Q. Would it be fair to say that your title was the military

01:40:18 **8** attache' to the United States from Jordan?

01:40:31 **9** A. No.

-08:-44:-38 **10** Q. What was your title specifically?

01:40:39 **11** THE WITNESS: (IN ENGLISH) Training officer.

01:40:40 **12** A. Training officer.

-08:-44:-38 **13** THE INTERPRETER: That was in English, Your Honor.

-08:-44:-38 **14** BY MR. SOFER:

-08:-44:-38 **15** Q. Did you work with the United States military during that

01:40:46 **16** time?

01:41:03 **17** A. I do not understand the question.

01:41:06 **18** Q. Okay. You were sent to the United States by the

01:41:09 **19** Jordanian government, correct?

-08:-44:-38 **20** A. Yes.

-08:-44:-38 **21** Q. And you were sent here as a training officer?

01:41:29 **22** THE WITNESS: Attache'.

01:41:29 **23** BY MR. SOFER:

01:41:30 **24** Q. So you were the military attache'?

01:41:35 **25** A. In the military attache'.

01:41:38 **1** Q. I see, you were the in the military attache's office as
-08:-44:-38 **2** a training officer; is that fair to say?

01:41:45 **3** A. Yes, sir.

01:41:51 **4** Q. And the job in the military attache's office is to
01:41:55 **5** interact with the military of the United States; isn't that
-08:-44:-38 **6** correct? That's why you send a military attache' from one
01:42:01 **7** government?

-08:-44:-38 **8** THE COURT: Excuse me. You can't.

01:42:05 **9** MR. SOFER: I'll try to break it into its component
01:42:08 **10** parts.

-08:-44:-38 **11** Q. A military attache' interacts with the military of the
-08:-44:-38 **12** government in which -- in the country where the military
01:42:17 **13** attache' is sent, correct.

01:42:32 **14** A. If this is the right way, that's right.

01:42:36 **15** Q. Let me ask it another way. This is a way for the
-08:-44:-38 **16** militaries of countries to work together, train together, share
-08:-44:-38 **17** information; isn't that correct?

01:42:58 **18** A. Yes.

01:42:59 **19** Q. And you were regularly interacting with American
01:43:04 **20** military officials, were you not?

01:43:16 **21** A. In the military, yes.

01:43:18 **22** Q. And you got -- you were sent to United States. Did you
01:43:23 **23** have English, did you learn English when you were growing up?

01:43:34 **24** A. Yes.

01:43:36 **25** Q. And in part one of the reasons that you were sent from

01:43:39 **1** Jordan to the United States was because you had some English
-08:-44:-38 **2** speaking skills; isn't that correct?

01:43:59 **3** THE WITNESS: Yes.

-08:-44:-38 **4** A. Yes.

01:44:01 **5** BY MR. SOFER:

01:44:01 **6** Q. As part of your job you interacted with other military
-08:-44:-38 **7** individuals in the United States who spoke English, correct?

01:44:22 **8** A. Yes.

01:44:23 **9** Q. And would it be fair to say that you also know how write
-08:-44:-38 **10** English? .

01:44:39 **11** THE WITNESS: Write by hand you mean?

01:44:42 **12** BY MR. SOFER:

01:44:42 **13** Q. Yes.

-08:-44:-38 **14** A. Yes.

01:44:47 **15** THE WITNESS: Yes.

01:44:52 **16** BY MR. SOFER:

01:44:52 **17** Q. Now, when you retired from the military, what was your
-08:-44:-38 **18** rank?

01:45:10 **19** THE INTERPRETER: Your Honor, can I look it up in
-08:-44:-38 **20** my dictionary, please?

-08:-44:-38 **21** THE COURT: Yes. Or if he knows in English.

01:45:21 **22** BY MR. SOFER:

-08:-44:-38 **23** Q. You said it in English?

01:45:31 **24** MR. SOFER: I think he said between a colonel and a
01:45:35 **25** lieutenant general.

01:45:39 **1** THE WITNESS: Lieutenant colonel.

01:45:42 **2** THE COURT: Lieutenant colonel.

01:45:56 **3** THE INTERPRETER: Lieutenant colonel, Your Honor.

-08:-44:-38 **4** Another word, major.

01:46:00 **5** THE COURT: Okay.

01:46:04 **6** BY MR. SOFER:

-08:-44:-38 **7** Q. And your son, Mohammad, was born while you were here

-08:-44:-38 **8** stationed in the United States; is that right?

01:46:19 **9** A. Yes.

01:46:20 **10** Q. And you lived in Virginia, correct?

01:46:25 **11** A. Yes.

01:46:26 **12** Q. And Mohammad was born at Walter Reed Medical Hospital,

-08:-44:-38 **13** correct?

01:46:35 **14** A. Yes.

-08:-44:-38 **15** Q. From your time in America do you know that Walter Reed

-08:-44:-38 **16** serves as a place where wounded soldiers are treated?

01:46:53 **17** A. I don't know.

01:46:55 **18** Q. Well, did you -- were you afforded an opportunity by the

01:47:01 **19** government of the United States to have your child born in a

-08:-44:-38 **20** U.S. military hospital?

01:47:16 **21** A. They provided the services, yes.

01:47:20 **22** Q. Okay. Now, sir, are you aware that there is presently

-08:-44:-38 **23** no enforceable extradition treaty between the United States

01:47:30 **24** government and Jordan?

01:47:31 **25** MS. CLEARY: Objection, Your Honor.

-08:-44:-38 **1** THE COURT: Sustained. That may be something I
01:47:38 **2** can take judicial notice of. I'm not sure that his --
-08:-44:-38 **3** MR. SOFER: May we approach for a moment?
01:47:46 **4** THE COURT: Perhaps, why don't you rephrase with
-08:-44:-38 **5** regard to his understanding, if that's the purpose.
01:47:51 **6** MR. SOFER: It is, Judge.
01:47:52 **7** THE COURT: Rephrase.
01:47:55 **8** BY MR. SOFER:
-08:-44:-38 **9** **Q.** Is it your understanding that there is presently no
-08:-44:-38 **10** enforceable extradition treaty between the United States
-08:-44:-38 **11** government and the country of Jordan?
01:48:13 **12** THE WITNESS: I don't know.
01:48:17 **13** **A.** I don't know. I don't know, what do you mean?
-08:-44:-38 **14** BY MR. SOFER:
-08:-44:-38 **15** **Q.** I mean, sir, that if you were not to tell us the truth
-08:-44:-38 **16** here today that there would be nothing the United States
01:48:28 **17** government could do about that?
01:48:30 **18** MR. WITMER-RICH: Objection, Your Honor.
-08:-44:-38 **19** THE COURT: Rephrase as to his understanding. I'm
-08:-44:-38 **20** going to ask you to rephrase -- why don't you approach?
01:48:42 **21** (Whereupon the following discussion was had at the
01:52:38 **22** bench outside the hearing of the jury:)
01:52:38 **23** THE COURT: Whether he has any -- what his
-08:-44:-38 **24** comprehension is of the consequences of not telling the truth?
-08:-44:-38 **25** MR. SOFER: Absolutely.

THE COURT: That's an appropriate question to ask.

MR. SOFER: That's what I tried, but maybe inartfully asked.

THE COURT: I would suggest, what is your understanding, if any, about what will happen to you if you don't tell the truth, or something like that.

MR. SOFER: Except that that's an open-ended question. I prefer to ask a cross-examination question. Is it your understanding that if you were not to tell the truth here that there would be nothing that the United States government could do about it? I prefer to put it in a leading way.

THE COURT: Any objection to that form of the question?

MR. BRYAN: I object to that line of question because we would have preferred to have Zaki Amawi here in court then. Only because of our ability to do it in a timely manner is it that we're doing it this way. So it implies we're trying to hide Mr. Amawi. The jury could be instructed so.

THE COURT: I told jury that they can consider his testimony. I don't think the circumstances about how it's set up are pertinent. Such is life. We have what we have.

MR. BRYAN: I understand, but --

THE COURT: Time out. Please don't interrupt. Seriously, I will not permit that to occur. There are few things that light my wick more pyrotechnically than being

-08:-44:-38 **1** interrupted by anybody. Don't ever do it again.

-08:-44:-38 **2** My point simply is that he's testifying over the

-08:-44:-38 **3** government's objection, under the circumstances that are with us

-08:-44:-38 **4** today, and the government's entitled to ask that question.

-08:-44:-38 **5** MR. BRYAN: I agree, Your Honor. The only concern

-08:-44:-38 **6** I have is not -- I understand Mr. Sofer's concern as well. I

-08:-44:-38 **7** think it's a legitimate concern. But at the same time there's

-08:-44:-38 **8** other inferences that I think are creeping into the process.

-08:-44:-38 **9** One of those inferences is somehow we have overseas witnesses by

-08:-44:-38 **10** choice so that they could feel more free to --

-08:-44:-38 **11** THE COURT: If counsel want me to give an

-08:-44:-38 **12** instruction why the witnesses are not able to testify here,

-08:-44:-38 **13** that's fine.

-08:-44:-38 **14** MR. SOFER: I would caution the Court against doing

-08:-44:-38 **15** that. Particularly, and I can give you --

-08:-44:-38 **16** THE COURT: I'll do it later. You ask the

-08:-44:-38 **17** question.

-08:-44:-38 **18** MR. SOFER: I think you'll see, Judge, there's a

-08:-44:-38 **19** reason this particular witness can't come to the United States.

-08:-44:-38 **20** He's been deported, and he's actually been deported.

-08:-44:-38 **21** THE COURT: I understand. Let's move on down the

-08:-44:-38 **22** road.

-08:-44:-38 **23** (End of side bar).

-08:-44:-38 **24** MR. ABDRABOH: We'd like the Court to entertain an

-08:-44:-38 **25** instruction regarding the translators. I'm not sure, the jury

-08:-44:-38 **1** may be getting the impression that they may be a hired gun for

-08:-44:-38 **2** either side. Just something to indicate that they work for --

-08:-44:-38 **3** THE COURT: At the end I will. Remind me.

-08:-44:-38 **4** (End of side-bar discussion.)

01:52:44 **5** THE COURT: You may continue and you may rephrase

-08:-44:-38 **6** the question.

-08:-44:-38 **7** MS. CLEARY: Thank you, Judge.

01:52:50 **8** BY MR. SOFER:

01:52:51 **9** **Q.** Mr. Amawi, is it your present understanding that, were

-08:-44:-38 **10** you not to tell us the truth here today, that the United States

01:53:02 **11** government would be powerless to do anything about it?

01:53:21 **12** **A.** Can I make some comments?

-08:-44:-38 **13** **Q.** Just try to answer the question, sir. Do you have an

01:53:32 **14** understanding about what would happen to you were you not to

01:53:35 **15** tell the truth, from a legal perspective?

01:53:52 **16** THE INTERPRETER: I'm sorry, Your Honor,

-08:-44:-38 **17** interpreter did not hear.

01:54:01 **18** **A.** If I did not say the truth, if I was a liar, I will

-08:-44:-38 **19** follow my son in United States. I would be in prison there.

-08:-44:-38 **20** BY MR. SOFER:

-08:-44:-38 **21** **Q.** But you're not allowed to come to the United States, are

-08:-44:-38 **22** you, sir?

01:54:17 **23** **A.** Did not understand. What?

01:54:19 **24** **Q.** You're not allowed to follow your son here to the United

-08:-44:-38 **25** States anymore; isn't that true?

01:54:29 **1** A. If I'm going to be a liar, I will follow him to prison.

-08:-44:-38 **2** Q. I understand. I'm asking you, sir, you are not

01:54:39 **3** presently allowed to come to the United States for 20 years;

-08:-44:-38 **4** isn't that correct?

01:54:49 **5** A. Yes.

-08:-44:-38 **6** Q. That's because you were deported, correct?

01:54:55 **7** A. Yes.

-08:-44:-38 **8** Q. You were deported in 2001?

01:55:01 **9** A. Yes.

-08:-44:-38 **10** Q. You testified about that to the jury, correct?

01:55:09 **11** A. Yes.

-08:-44:-38 **12** Q. You didn't tell the jury that you were also deported in

01:55:14 **13** 1999; isn't that correct?

01:55:23 **14** A. I did not get the chance to say it.

01:55:25 **15** Q. Well, you were deported in 1999 as well, correct?

01:55:34 **16** A. Yes.

01:55:35 **17** Q. And you were held in custody for one day at JFK airport,

-08:-44:-38 **18** correct?

01:55:49 **19** A. Pardon me? I did not understand the question.

01:55:52 **20** Q. You came to the United States on or about November 26 of

-08:-44:-38 **21** 1999, right?

01:56:07 **22** THE INTERPRETER: I'm sorry, Your Honor, I forgot

-08:-44:-38 **23** the year.

01:56:14 **24** BY MR. SOFER:

01:56:14 **25** Q. 1999.

-08:-44:-38 **1** A. Yes.

-08:-44:-38 **2** Q. And you got to JFK airport?

01:56:21 **3** A. Yes.

-08:-44:-38 **4** Q. And you were held by immigration there for some period

-08:-44:-38 **5** of time, correct?

01:56:31 **6** A. Yes.

-08:-44:-38 **7** Q. And you were sent back the next day, on November 27, and

-08:-44:-38 **8** you were deported, correct?

01:56:45 **9** A. Yes.

-08:-44:-38 **10** Q. And you were interviewed by the Immigration

01:56:49 **11** Naturalization Service at that time, correct?

01:57:01 **12** A. Yes.

01:57:02 **13** Q. And you swore to tell the truth during that interview,

-08:-44:-38 **14** did you not?

01:57:10 **15** A. Yes.

-08:-44:-38 **16** Q. Just like you did this morning or this afternoon?

01:57:20 **17** A. Where did I, where did I swear, where?

01:57:27 **18** Q. When you were being interviewed by agents of the

-08:-44:-38 **19** Immigration Naturalization Service, you swore to tell the truth,

-08:-44:-38 **20** correct?

01:57:35 **21** A. Which year?

01:57:41 **22** Q. 1999, sir.

01:57:44 **23** A. I do not recall if I swore.

01:57:53 **24** Q. Okay. Hold on a second. We'll see if we can get

01:58:01 **25** technology across the world here.

01:59:15 **1** MS. CLEARY: Your Honor, could we approach?

01:59:19 **2** THE COURT: Sure.

-08:-44:-38 **3** (Whereupon the following discussion was had at the

02:01:53 **4** bench outside the hearing of the jury:)

02:01:53 **5** THE COURT: Have they been marked? They have not.

-08:-44:-38 **6** I'm going to deem them marked 220 and 221. You might as well

-08:-44:-38 **7** have them marked. Whether they come in or not, I like to have

-08:-44:-38 **8** everything marked.

-08:-44:-38 **9** MR. SOFER: I apologize.

-08:-44:-38 **10** THE COURT: No problem.

-08:-44:-38 **11** MR. SOFER: This is the first document I intend to

-08:-44:-38 **12** show the witness, a deportation order in which he is told in

-08:-44:-38 **13** bold print: Do not come back to the United States for five

-08:-44:-38 **14** years.

-08:-44:-38 **15** THE COURT: Okay.

-08:-44:-38 **16** MR. SOFER: This is the interview that was

-08:-44:-38 **17** conducted on that day. At the end you'll notice there is a

-08:-44:-38 **18** section in which --

-08:-44:-38 **19** THE COURT: Okay. Is there something false in

-08:-44:-38 **20** that?

-08:-44:-38 **21** MR. SOFER: There are some things that I believe are

-08:-44:-38 **22** false, yes, Judge; omissions would be the best way I could put

-08:-44:-38 **23** it.

-08:-44:-38 **24** MR. BRYAN: Just to be clear for the record, Mr.

-08:-44:-38 **25** Amawi was stopped at JFK, he was held at JFK in whatever

-08:-44:-38 **1** facilities Immigration has there, not allowed to enter the
-08:-44:-38 **2** country, is that correct, and then he was removed from the
-08:-44:-38 **3** country? And he probably -- whatever rights were explained to
-08:-44:-38 **4** him he waived and agreed to go back.

-08:-44:-38 **5** MR. SOFER: There must have been -- again, I'm not
-08:-44:-38 **6** familiar with exactly what happened. There was some
-08:-44:-38 **7** abbreviated procedure.

-08:-44:-38 **8** MR. BRYAN: Just dealing with an agent. There
-08:-44:-38 **9** wasn't an Immigration Judge.

-08:-44:-38 **10** MR. SOFER: There's an immigration official at JFK
-08:-44:-38 **11** airport.

-08:-44:-38 **12** MR. BRYAN: It's not same as a deportation
-08:-44:-38 **13** proceeding.

-08:-44:-38 **14** THE COURT: Then you bring that out on redirect if
-08:-44:-38 **15** you want. Okay.

-08:-44:-38 **16** MR. SOFER: Judge, I don't know. Counsel reminds
-08:-44:-38 **17** me. I think he's right. I don't know if there's a way of
02:02:15 **18** doing this. If I could show this to the witness and not the
-08:-44:-38 **19** jury, I'm happy to do it that way. It's the right procedure.

02:02:32 **20** THE COURT: We can see.

02:02:40 **21** MS. GRILL: Your Honor, our screen is blue. It's
02:02:43 **22** totally blank with blue on it. The exhibit initially it's up
02:02:48 **23** and then it disappeared.

02:02:54 **24** THE COURT: We're calling in the calvary.

02:03:06 **25** MS. GRILL: It had it again for a millisecond.

-08:-44:-38 **1** Your Honor, we have it on the screen. The problem
02:03:23 **2** is I cannot see the entire document, and I don't know if Mr.

-08:-44:-38 **3** Amawi can read it, but I have no idea what that item is. I

-08:-44:-38 **4** mean the -- it's just not clear enough.

02:03:39 **5** THE COURT: In other words, are you saying that the

-08:-44:-38 **6** resolution is not clear and the words are blurry or it is a

-08:-44:-38 **7** matter of focus?

02:03:50 **8** MS. GRILL: It seems to me that the resolution is

-08:-44:-38 **9** not very clear. And I don't know other than -- I can read,

02:04:01 **10** "verification of removal, complete this section for, file copy

02:04:08 **11** only," but I can't see the entire item. So I don't know what

-08:-44:-38 **12** it is.

02:04:15 **13** MR. SOFER: Can you see the section I am pointing

-08:-44:-38 **14** to now where it says "warning"?

02:04:23 **15** MS. GRILL: That would be difficult. I don't know

02:04:25 **16** if there's a way to focus it better. Can somebody from there

-08:-44:-38 **17** identify what that document is? I have no idea.

02:04:37 **18** MR. SOFER: That's not her --

02:04:38 **19** THE COURT: It is a document. We're doing this in

-08:-44:-38 **20** the presence of the jury. It is a document that the government

02:04:48 **21** believes the witness has seen previously. So don't discuss any

-08:-44:-38 **22** of the contents of the document.

-08:-44:-38 **23** Let me ask this: Do you know, Ms. Grill, whether

02:05:01 **24** or not there's a fax machine available? If you want to step

02:05:08 **25** out.

02:05:09 **1** MS. GRILL: Your Honor, I would be happy to do
-08:-44:-38 **2** that. Just give me a moment or two.
-08:-44:-38 **3** MR. SOFER: I can ask some questions about that. I
02:05:17 **4** can come back to it, or we can wait.
-08:-44:-38 **5** THE COURT: Let's see if there's a fax machine.
-08:-44:-38 **6** Then whatever you have, maybe you can fax it.
02:06:24 **7** MS. GRILL: Your Honor, I do have a fax number.
02:06:30 **8** MR. SOFER: Do you want me to fax it, Judge?
02:06:34 **9** THE COURT: Amy can do that.
-08:-44:-38 **10** MR. SOFER: There are two documents here.
02:06:41 **11** THE COURT: Amy, make a note of the fax number.
02:06:45 **12** I'm going to have the courtroom deputy fax it to you, and you
-08:-44:-38 **13** can give us the fax number.
02:06:54 **14** MS. GRILL: This is with country codes. This
02:06:56 **15** should be everything you have to dial. 00196265516674.
02:07:20 **16** THE COURT: I'm going to have the translator
-08:-44:-38 **17** explain to Mr. Amawi what's happening.
02:07:30 **18** We are trying to fax some documents over to you so
-08:-44:-38 **19** that Mr. Sofer can ask questions about them. And in the
02:07:42 **20** meantime Mr. Sofer will ask some other questions.
02:07:49 **21** And, Ms. Grill, if you can let us know whether you
-08:-44:-38 **22** get the fax.
02:07:57 **23** MS. GRILL: Your Honor, if I may really quick, the
-08:-44:-38 **24** fax machine is downstairs in a different part of the building,
-08:-44:-38 **25** so it may take me a minute or two to retrieve it for the Court.

02:08:09 **1** THE COURT: No problem. But in the meantime, Mr.

-08:-44:-38 **2** Sofer will be asking a couple questions.

-08:-44:-38 **3** If you'll translate all of that.

02:08:52 **4** BY MR. SOFER:

-08:-44:-38 **5** Q. Mr. Amawi, when you came to the United States in

-08:-44:-38 **6** November of 1999, what was your purpose in coming here?

02:09:18 **7** A. My children were willing to come to the United States,

02:09:27 **8** and I was trying to find work for them. And I got a store with

02:09:40 **9** somebody Egyptian. He's a partner of me. He's the landlord

-08:-44:-38 **10** of the store.

02:09:54 **11** Q. Is it fair to say -- I'm sorry I interrupted you, go

-08:-44:-38 **12** ahead.

02:10:05 **13** THE WITNESS: In the store.

02:10:15 **14** THE INTERPRETER: I'm sorry, Your Honor.

02:10:17 **15** Interpreter did not hear what the witness said.

-08:-44:-38 **16** A. The store took a long time to be built because in the

02:10:36 **17** beginning it used to be a dry cleaner, and we -- he convert it

-08:-44:-38 **18** to make it a regular store.

02:10:44 **19** BY MR. SOFER:

02:10:44 **20** Q. Now, let me interrupt you. I apologize. My question

-08:-44:-38 **21** is, why -- when all of this happened with the store was on your

-08:-44:-38 **22** prior visit before you were deported or removed from the United

-08:-44:-38 **23** States, correct?

02:11:08 **24** A. Yes.

02:11:09 **25** Q. My question was: Why were you coming back to the United

-08:-44:-38 **1** States on November 26 of 1999?

02:11:28 **2** **A.** I paid money to Egyptian guy, to landlord of the store.

02:11:41 **3** And I had a rental agreement between me and him.

02:11:54 **4** THE INTERPRETER: Your Honor, can I ask him for a

02:11:57 **5** clarification? Did not hear that.

02:12:01 **6** THE WITNESS: The store --

02:12:09 **7** **A.** I was building the store and we founded the store to

02:12:14 **8** make a business for Mohammad and Amr to get ready for work.

-08:-44:-38 **9** BY MR. SOFER:

-08:-44:-38 **10** **Q.** So you were coming to the United States on these two

-08:-44:-38 **11** occasions -- I'm sorry. Go ahead.

02:12:28 **12** THE WITNESS: But the Egyptian guy --

02:12:32 **13** **A.** But the Egyptian guy, because he was the landlord, I had

-08:-44:-38 **14** a dispute between me and him.

-08:-44:-38 **15** BY MR. SOFER:

-08:-44:-38 **16** **Q.** I'm sorry to interrupt, but you're basically saying you

02:12:52 **17** came back because the business arrangement with you and the

02:12:55 **18** Egyptian guy you thought he had taken your money or not done

-08:-44:-38 **19** what he was supposed to do, right?

02:13:13 **20** **A.** Prior to that I went to Egypt to meet his family.

02:13:19 **21** **Q.** Again, sir, I'm sorry to interrupt. I just want to get

-08:-44:-38 **22** to the main point of this.

02:13:28 **23** **A.** Please be patient with me.

-08:-44:-38 **24** **Q.** I'm trying, sir.

02:13:35 **25** **A.** Me and my wife went to Egypt to get the money and talk

-08:-44:-38 **1** with his family. But he said you have no money -- you don't
-08:-44:-38 **2** have any money with me. He give me 2000 dollars and we left.
-08:-44:-38 **3** **Q.** So you had a dispute with this man and you were coming
02:14:01 **4** back in 1999 to try to resolve the dispute. Is that fair to
-08:-44:-38 **5** say?
02:14:13 **6** THE WITNESS: Yes.
-08:-44:-38 **7** **A.** Yes.
02:14:15 **8** BY MR. SOFER:
02:14:15 **9** **Q.** And this had to do with a business that you were trying
-08:-44:-38 **10** to set up for your sons, is that correct? That is Amr and
02:14:24 **11** Mohammad, correct?
02:14:32 **12** **A.** Correct. But I admit that I was stupid in this stop, in
02:14:37 **13** making this stop.
-08:-44:-38 **14** **Q.** That's not really relevant to what we're talking about
02:14:41 **15** here. What I'm asking you is whether or not Mohammad knew that
-08:-44:-38 **16** you were coming to the United States in November of 1999. Did
-08:-44:-38 **17** he know that?
02:14:50 **18** MS. CLEARY: Objection.
02:14:52 **19** BY MR. SOFER:
02:14:52 **20** **Q.** Did you have a conversation with him about coming to the
-08:-44:-38 **21** United States in November of 1999?
02:15:10 **22** **A.** Might be. I do not recall but definitely there must be
02:15:15 **23** some conversation going on.
02:15:21 **24** **Q.** When you were stopped at the airport and basically held
-08:-44:-38 **25** for day or so and then removed from the United States against

-08:-44:-38 **1** your will, did you have conversations with Mohammad about that
-08:-44:-38 **2** as well?

02:15:33 **3** THE WITNESS: Yes.

02:15:47 **4** THE INTERPRETER: Your Honor, interpreter did not
-08:-44:-38 **5** translate the question, and the answer was right away without
02:15:52 **6** translating the question. And he said: Yes, when I was stopped
-08:-44:-38 **7** in New York, yes, I talked to Mohammad, and I told him about
-08:-44:-38 **8** what happened.

02:15:59 **9** BY MR. SOFER:

02:15:59 **10** **Q.** This was not a fun day for you, correct?

02:16:06 **11** **A.** Yes.

02:16:07 **12** **Q.** And it was an important event in your life, and you
02:16:11 **13** shared it with your son, correct?

02:16:21 **14** **A.** I made a mistake that I'm paying the price now.

02:16:26 **15** **Q.** Well, among other things, when you were removed from the
-08:-44:-38 **16** country, you were told it would be a federal crime for you to
02:16:34 **17** return for which you could spend five years in prison; is that
02:16:46 **18** correct?

02:16:46 **19** THE INTERPRETER: Your Honor, I forgot the rest of
-08:-44:-38 **20** the penalty. Can I ask again for it?

02:16:52 **21** MR. SOFER: I'll rephrase the question.

02:16:55 **22** BY MR. SOFER:

-08:-44:-38 **23** **Q.** You were told you could not return to the United States
-08:-44:-38 **24** for five years. And if you did, you might be subject to
-08:-44:-38 **25** imprisonment, correct?

02:17:13 **1** A. I do not understand the question.

02:17:15 **2** Q. It's very simple, sir. When they put you on an

-08:-44:-38 **3** airplane and told you you could not enter the United States,

-08:-44:-38 **4** they told you, and they gave you a piece of paper which you

-08:-44:-38 **5** signed -- they gave you a piece of paper that you signed at the

-08:-44:-38 **6** end of that interaction with the immigration service, correct?

02:17:41 **7** A. Yes.

02:17:42 **8** Q. And in big black bold letters it said on there,

02:17:46 **9** "warning", and it said something to the effect that if you were

-08:-44:-38 **10** being removed from the United States that it would be a federal

-08:-44:-38 **11** crime for you to return to the United States within five years;

-08:-44:-38 **12** isn't that correct?

02:18:22 **13** A. After I travel I read something on the paper that says

02:18:26 **14** you're not allowed to come to United States in five years.

02:18:34 **15** THE COURT: What year, 1999?

-08:-44:-38 **16** MR. SOFER: This was in November of 1999, correct.

-08:-44:-38 **17** In fact, it was November 27, 1999, correct.

-08:-44:-38 **18** THE WITNESS: I think so.

-08:-44:-38 **19** BY MR. SOFER:

-08:-44:-38 **20** Q. I don't know if the lady behind you has the fax yet, but

02:18:56 **21** I'd like you to take a look at that if you get it. It's

02:19:00 **22** Government's Exhibit Number 320, I believe -- I'm sorry, 220.

-08:-44:-38 **23** I'm 100 ahead. If you ever get it, I'd like you to take a look

-08:-44:-38 **24** at it and tell us if that's the document you were given by the

-08:-44:-38 **25** Immigration and Naturalization Service.

-08:-44:-38 **1** It should be there soon.

02:19:42 **2** A. Okay.

02:19:46 **3** Q. When you came to the United States in 1999 you came on a

-08:-44:-38 **4** visitor's visa; is that correct?

02:19:58 **5** A. Yes.

02:19:59 **6** Q. And among other things that meant you were not allowed

02:20:02 **7** to work here, correct?

02:20:19 **8** A. That's correct, that's correct, but I did not think

-08:-44:-38 **9** building a business would be -- would be not legal, and I went

-08:-44:-38 **10** to this Egyptian guy, and we had an attorney. But I was fooled

02:20:37 **11** and I was stupid to be fooled.

-08:-44:-38 **12** Q. How about working at a gas station, would that be

-08:-44:-38 **13** illegal as far as you understood?

02:20:52 **14** A. It is illegal by was working to build myself to open a

02:20:59 **15** store.

-08:-44:-38 **16** Q. How about a gas station, sir?

02:21:04 **17** A. Yes. I was planning to open my own store. And I was

02:21:21 **18** working to build my own experience to see if opening the store

-08:-44:-38 **19** would be a good idea or would be profitable or not.

02:21:27 **20** Q. How many places did you work during the time that you

-08:-44:-38 **21** were not supposed to be working?

02:21:39 **22** A. One gas station.

02:21:40 **23** Q. How about the Patterson Grocery in North Carolina?

-08:-44:-38 **24** THE WITNESS: What?

-08:-44:-38 **25** BY MR. SOFER:

-08:-44:-38 **1** Q. How about the Patterson grocery on 495 Heatherton Lane

-08:-44:-38 **2** in North Carolina; did you work there, too?

02:22:03 **3** A. That was the store who we have a partnership.

02:22:26 **4** THE WITNESS: I still have it in my mind.

02:22:29 **5** A. I still have it in my mind, the number.

-08:-44:-38 **6** BY MR. SOFER:

-08:-44:-38 **7** Q. So the two places you worked were at the Patterson

02:22:34 **8** grocery and the BP gas station, right?

02:22:40 **9** A. Yes.

-08:-44:-38 **10** Q. And those are the only two places you worked; is that

02:22:52 **11** correct?

02:22:52 **12** A. In North Carolina, yes.

02:22:54 **13** Q. Did you work in other states?

02:23:03 **14** A. Did not work in another state, but I went to visit in

02:23:07 **15** another state.

02:23:10 **16** Q. You did get lots of driver's licenses while you were

-08:-44:-38 **17** here, did you not?

02:23:28 **18** A. Mohammad, my son applied for me in the immigration to

-08:-44:-38 **19** get me a work permit, and they give me a work permit in Toledo.

-08:-44:-38 **20** And after that I worked on a taxi.

02:23:44 **21** Q. You did work elsewhere as well?

02:23:52 **22** A. By permission.

-08:-44:-38 **23** Q. Did you have a driver's license in Texas?

02:24:01 **24** A. Yes.

-08:-44:-38 **25** Q. Did you have a driver's license in North Carolina?

02:24:06 **1** A. Yes.

-08:-44:-38 **2** Q. Did you have a driver's license in Ohio?

02:24:20 **3** A. A personal driver's license from me?

-08:-44:-38 **4** Q. Yes. Did you have a driver's license in Ohio?

02:24:26 **5** THE WITNESS: In Ohio I have permission to work as

-08:-44:-38 **6** a taxi.

-08:-44:-38 **7** BY MR. SOFER:

-08:-44:-38 **8** Q. I understand, sir. I'm not disagreeing with you. I'm

-08:-44:-38 **9** just asking you: Did you have a driver's license also in Ohio?

-08:-44:-38 **10** THE WITNESS: Yes.

02:24:43 **11** A. Yes.

-08:-44:-38 **12** BY MR. SOFER:

-08:-44:-38 **13** Q. When were you born, sir? What is your date of birth?

02:24:51 **14** A. In Arabic, 19/12.

02:25:02 **15** THE WITNESS: 20th -- December. There was a

02:25:14 **16** mistake in my certificate.

02:25:16 **17** A. It was a mistake. They translated to 19/12. It was

02:25:22 **18** supposed to be December.

02:25:23 **19** BY MR. SOFER:

02:25:23 **20** Q. Sir, what is your real birth date? What month, what

-08:-44:-38 **21** day, what year?

02:25:35 **22** A. 19 -- the date is 19, the 12th month, '46.

02:25:48 **23** Q. So December 19?

02:25:56 **24** A. '46.

-08:-44:-38 **25** Q. December 19, 1946; would that be correct?

02:26:08 **1** A. Yes.

02:26:10 **2** Q. When you were interviewed by the INS in 1999, that's the
-08:-44:-38 **3** birth date you gave them, correct?

02:26:37 **4** A. To be honest with you, I don't know. I don't recall
-08:-44:-38 **5** whether the date that was on the driver's license, give it to
-08:-44:-38 **6** them.

02:26:48 **7** Q. I'm not talking about the driver's license now, although
-08:-44:-38 **8** you do anticipate my next question. I'm going to interrupt you
-08:-44:-38 **9** and ask you to answer my question, please.

02:27:09 **10** I'm asking you when you were interviewed by the
-08:-44:-38 **11** Immigration and Naturalization Service at JFK Airport in
02:27:16 **12** November of 1999, isn't it true that you gave them your true
02:27:20 **13** birthday of December 19, 1946?

02:27:45 **14** A. I don't know. There is a mistake. There is a
-08:-44:-38 **15** difference between the driver's license that I have, and that's
-08:-44:-38 **16** just to be honest with you.

-08:-44:-38 **17** Q. That's good. I want you to be honest with us, sir.

02:27:56 **18** But my question -- you're not answering my
02:28:00 **19** question. On your passport it says December 19, 1946, correct?

02:28:09 **20** A. Yes.

-08:-44:-38 **21** Q. And you're familiar that in the United States, law
-08:-44:-38 **22** enforcement uses a birthday in order to track human beings down;
-08:-44:-38 **23** that is, the identity of citizens/non-citizens alike?

-08:-44:-38 **24** MS. CLEARY: Objection.

02:28:26 **25** THE COURT: Did you ask whether it's his

-08:-44:-38 **1** understanding?

02:28:29 **2** MR. SOFER: Yes, Judge.

02:28:51 **3** A. To be honest with you, for me it was not important, and

-08:-44:-38 **4** I did not did it on purpose to hide any kind of information.

-08:-44:-38 **5** BY MR. SOFER:

-08:-44:-38 **6** Q. That's not my question, sir. I'm asking you: It is

-08:-44:-38 **7** your understanding that in the United States, a birthday and a

-08:-44:-38 **8** name is the way that law enforcement is able to determine

02:29:17 **9** somebody's identity?

02:29:39 **10** A. For us in Jordan, the name of the person and his mother

-08:-44:-38 **11** are the most important thing, and I don't know, I have no idea

02:29:55 **12** about the system over there.

-08:-44:-38 **13** Q. Okay. You said there was a difference though between

-08:-44:-38 **14** the date of birth on your driver's license, correct, and your

02:30:07 **15** actual date of birth? In other words, the date of birth on your

02:30:10 **16** driver's license was not accurate, correct?

02:30:37 **17** A. When I applied I put 19/12, but they put it 14/12.

02:30:42 **18** Maybe they misunderstood or they did not understand before --

02:30:46 **19** they did not understand the nine to be nine, and they put it

-08:-44:-38 **20** four. But it was not intentionally done.

-08:-44:-38 **21** Q. Well, how many driver's licenses do you have with the

-08:-44:-38 **22** December 14, 1946 birthday on them, or did you get?

02:31:15 **23** A. Where? Here in Jordan?

02:31:17 **24** Q. Your North Carolina driver's license says December 14,

02:31:22 **25** correct?

02:31:27 **1** A. Yes. There was a mistake. But I don't know if it was
-08:-44:-38 **2** on driver's license or the work permission.

02:31:46 **3** Q. Your Texas driver's license says December 14 also?

02:32:00 **4** A. Maybe this mistake was in the beginning and it continued
02:32:04 **5** to be.

-08:-44:-38 **6** Q. Apparently. And you gave these -- there were a number
-08:-44:-38 **7** of times while you were in North Carolina where you actually
-08:-44:-38 **8** gave these driver's licenses to police officers who were taking
02:32:22 **9** reports about things that -- nothing bad that you did, but other
02:32:26 **10** things that you had seen, where you had reported crimes; isn't
-08:-44:-38 **11** that right?

02:32:52 **12** A. The police sometimes stop me and see the driver's
-08:-44:-38 **13** license, but I do not recall that I went to court regarding the
02:33:11 **14** crimes or something like -- something else.

-08:-44:-38 **15** Q. Do you recall reporting that someone had trespassed at
-08:-44:-38 **16** the BP gas station that you worked at?

02:33:42 **17** A. Yes, I do recall that. And the police came, and I give
02:33:46 **18** them my driver's license.

-08:-44:-38 **19** Q. From Texas, right?

02:33:51 **20** A. No, that was in North Carolina.

-08:-44:-38 **21** Q. Were you interviewed by a Police Officer Snyder of the
02:34:02 **22** Winston Police Department on or about May 2, 1999? Do you
-08:-44:-38 **23** recall that?

02:34:21 **24** A. In Winston, yes.

02:34:25 **25** Q. And you gave that officer your Texas license, did you

-08:-44:-38 **1** not, not your North Carolina license?

02:34:39 **2** **A.** To be honest, I don't recall.

-08:-44:-38 **3** **Q.** I may send you another fax. Do you recall whether or

02:34:48 **4** not you told Officer Snyder that you were a United States

02:34:51 **5** citizen when he interviewed you?

02:35:04 **6** **A.** I'm not crazy to tell him I'm an American citizen.

02:35:10 **7** MR. SOFER: I'm sorry, didn't get the answer.

02:35:14 **8** **A.** I do not claim that I am an American citizen at all.

02:35:22 **9** BY MR. SOFER:

02:35:22 **10** **Q.** You never told that to Officer Snyder?

02:35:29 **11** **A.** Never.

02:35:31 **12** **Q.** Now, have you received the fax yet or not?

-08:-44:-38 **13** MS. GRILL: We have no fax yet. There is someone

-08:-44:-38 **14** downstairs waiting for it. I'm going to go downstairs and wait

-08:-44:-38 **15** for it. But I have no fax yet.

02:35:53 **16** THE COURT: Ms. Grill, why don't you give us the

-08:-44:-38 **17** number again because my understanding is it was sent -- ought to

-08:-44:-38 **18** be sent about a half hour or so ago.

02:36:15 **19** MR. SOFER: Mr. Antoon tells us the number should be

02:36:19 **20** 011 as opposed to 001.

-08:-44:-38 **21** THE COURT: That's usually the foreign access code.

02:36:28 **22** MS. GRILL: This is what they gave me, so I repeat

-08:-44:-38 **23** it. I have 96265516674.

02:36:42 **24** THE COURT: 9 -- 96.

-08:-44:-38 **25** MS. GRILL: 2, which is the country code for

-08:-44:-38 **1** Jordan, then 65516674.

02:36:56 **2** THE COURT: We'll try 011.

02:37:08 **3** MR. SOFER: I can keep trying to move forward.

02:37:13 **4** BY MR. SOFER:

-08:-44:-38 **5** **Q.** Mr. Amawi, despite the fact that you were removed from

-08:-44:-38 **6** the United States and told that you would be subject to criminal

02:37:20 **7** prosecution if you return within five years, you came back in

-08:-44:-38 **8** October of 2000; isn't that right?

02:37:48 **9** THE INTERPRETER: Did you say October 2000?

02:37:51 **10** MR. SOFER: Yes, October 2000.

-08:-44:-38 **11** **A.** I did come back but I do not recall the date.

02:37:57 **12** BY MR. SOFER:

02:37:57 **13** **Q.** Okay. You flew through Chicago when you came back in

02:38:04 **14** 2000?

02:38:05 **15** **A.** Yes.

-08:-44:-38 **16** **Q.** Would it refresh your recollection if I told you you

02:38:10 **17** returned on October 19 of 2000?

02:38:25 **18** **A.** I came through Chicago but I do not recall the date.

02:38:29 **19** **Q.** And how long did you stay in the United States from

02:38:34 **20** about October 2000 to when you were ultimately deported again in

-08:-44:-38 **21** December of 2001? How long did you stay? Do you recall how

-08:-44:-38 **22** long you stayed?

02:39:08 **23** **A.** One year and a half, or one year and five months.

02:39:12 **24** **Q.** By the way, from 1991 to 2000, were you living on

02:39:20 **25** Airport Street in Abu Dabai in the UAE?

02:39:38 **1** THE INTERPRETER: Your Honor, interpreter did not
-08:-44:-38 **2** hear. Can I ask him again?

-08:-44:-38 **3** THE COURT: Yes, you may, of course.

02:39:53 **4** THE WITNESS: I don't understand.

02:39:55 **5** **A.** I do not understand the question.

02:40:00 **6** BY MR. SOFER:

02:40:01 **7** **Q.** There was a time I think you testified you were living

-08:-44:-38 **8** in Abu Dabai where you were helping to train individuals in Abu

02:40:16 **9** Dabai, correct?

02:40:30 **10** THE INTERPRETER: Your Honor, can I ask him again

-08:-44:-38 **11** about the last part of the answer?

-08:-44:-38 **12** THE COURT: Yes.

02:40:45 **13** **A.** I joined the armed forces as a training officer.

02:40:52 **14** BY MR. SOFER:

02:40:52 **15** **Q.** And the government of Abu Dabai asked you to leave as

-08:-44:-38 **16** well; is that correct?

02:41:23 **17** THE INTERPRETER: Your Honor, I'm having difficulty

02:41:25 **18** hearing all the words. There's some words I cannot hear it, so

02:41:31 **19** can I ask him again?

-08:-44:-38 **20** THE COURT: Yes. Could I suggest you ask him to

02:41:38 **21** speak a little more clearly and a little more slowly. Just

-08:-44:-38 **22** explain the technology is sometimes a bit tough to work with.

02:42:11 **23** **A.** In 1985 I had a contact with the United Arab Emirates as

-08:-44:-38 **24** a trainer, as a military engineer, engineering trainer with the

-08:-44:-38 **25** rank of --

02:42:45 **1** THE INTERPRETER: Can I look it up, Your Honor?

02:42:49 **2** A. -- Lieutenant. And lived over there with my family.

02:43:05 **3** In 1991 -- I apologize, at the eight month in 30/8, 30 August,

-08:-44:-38 **4** the Iraqi forces entered Kuwait. Our contract was supposed to

02:43:52 **5** be ended in 1991. So after five months, because of that, we

-08:-44:-38 **6** finished the contract in 1991. The people who were making

-08:-44:-38 **7** troubles, they deported them right away after attacking Kuwait.

02:44:31 **8** The Jordanian people who did not make any troubles, they

02:44:39 **9** continue on their contract, and they did not renew for them any

02:44:44 **10** more. More than 1,000 individuals and officers, they deported

-08:-44:-38 **11** them, and the reasons are well-known.

02:45:04 **12** BY MR. SOFER:

02:45:04 **13** Q. I think maybe you have the fax there, or no? If you

02:45:13 **14** could show, Counsel, the witness Government's Exhibit 220. I

-08:-44:-38 **15** want you to take a look at that, sir, and see if that helps

02:45:23 **16** refresh your recollection. Take a look at the bottom.

-08:-44:-38 **17** Is that your photograph that was taken on or about

-08:-44:-38 **18** November 26 --

-08:-44:-38 **19** THE COURT: Why don't you ask him first, take a

-08:-44:-38 **20** moment to look at the entire document. And let us know when

-08:-44:-38 **21** you've done so.

02:49:08 **22** THE WITNESS: Yes, sir. I understand 50 percent.

02:49:13 **23** BY MR. SOFER:

02:49:14 **24** Q. 50 percent. Do you recognize this document?

02:49:20 **25** A. I see it in front of me.

-08:-44:-38 **1** Q. Have you seen it before?

02:49:27 **2** A. And I signed it.

-08:-44:-38 **3** Q. And it has your photograph on it, correct?

02:49:32 **4** A. Yes.

-08:-44:-38 **5** Q. And, in fact, it has your fingerprint on it as well,

-08:-44:-38 **6** correct?

-08:-44:-38 **7** A. Yes.

-08:-44:-38 **8** Q. And again, I want to direct your attention to the box

-08:-44:-38 **9** right in the middle that's darker than everything else. Did

-08:-44:-38 **10** you understand then and now that that particular section said

02:49:57 **11** that it would be a crime for you to come back to the United

-08:-44:-38 **12** States for five years after you were removed?

02:50:03 **13** THE COURT: Why don't you ask him to read it first.

02:50:07 **14** MR. SOFER: I believe he read the whole document,

-08:-44:-38 **15** Judge.

02:50:11 **16** THE COURT: Right. But you directed him -- ask

-08:-44:-38 **17** him to read --

02:50:19 **18** MR. SOFER: It looks like he's reading it now.

02:50:48 **19** THE WITNESS: There is a crime here, but how many

-08:-44:-38 **20** years? There is nothing here.

02:50:52 **21** THE COURT: The jury will disregard the comment.

02:50:55 **22** Please tell him to wait for a question.

02:51:08 **23** THE WITNESS: Go ahead.

02:51:09 **24** BY MR. SOFER:

02:51:09 **25** Q. Bottom line, you knew after you were removed in 1999

-08:-44:-38 **1** that it would be a crime to come back to the United States,

-08:-44:-38 **2** correct?

02:51:26 **3** A. Correct.

02:51:27 **4** Q. And you came back anyway. And after you were here, you

02:51:32 **5** filled out an application to register as a permanent resident or

02:51:37 **6** adjust your status in January of 2001; isn't that correct?

02:51:55 **7** A. Yes.

02:51:56 **8** Q. And, in fact, you hired someone to help you, a woman

02:52:00 **9** named Denise Case; is that your recollection?

02:52:09 **10** A. Yes.

02:52:12 **11** Q. And you filled out a form to adjust your status?

02:52:20 **12** A. Yes.

-08:-44:-38 **13** Q. And you knew that you had to tell the truth on that form

-08:-44:-38 **14** as well, correct?

02:52:31 **15** A. Yes.

02:52:32 **16** Q. In fact, it contained a certification that under penalty

-08:-44:-38 **17** of perjury under the laws of the United States of America that

02:52:39 **18** the application and the evidence submitted with it was all true

-08:-44:-38 **19** and correct?

02:53:07 **20** A. The paper that I filled, I put everything I knew that

-08:-44:-38 **21** was right.

02:53:15 **22** Q. And there was a question on that form of: Have you ever

02:53:18 **23** been deported from the United States or removed from the United

02:53:22 **24** States at government expense, excluded within the past year, and

-08:-44:-38 **25** are you now in exclusion or deportation proceedings?

02:53:40 **1** THE INTERPRETER: Can you repeat that, please?

02:53:45 **2** MR. SOFER: Here.

02:53:47 **3** (Document handed to interpreter.)

-08:-44:-38 **4** BY MR. SOFER:

-08:-44:-38 **5** **Q.** Do you remember being asked that question as one of the

-08:-44:-38 **6** questions that was posed to you on this form?

02:54:23 **7** **A.** No, I do not recall. No.

02:54:29 **8** **Q.** We'll send you another fax, I think. But let's try to

-08:-44:-38 **9** move on.

02:54:42 **10** I want to ask you some questions about your

-08:-44:-38 **11** testimony here today, specifically about your son, Mohammad

-08:-44:-38 **12** Amawi.

02:54:58 **13** Would it be fair to say that you've had a number of

02:55:01 **14** disagreements with your son over the course of his life?

02:55:30 **15** **A.** Mohammad was a boy; he was 18 years old.

02:55:39 **16** **Q.** Let me interrupt you for a minute. Have you had

-08:-44:-38 **17** arguments with your son about some of his radical beliefs?

02:55:54 **18** MS. CLEARY: Objection, Your Honor. Foundation.

02:55:59 **19** THE COURT: Overruled.

02:56:19 **20** MR. SOFER: You can answer the question.

02:56:22 **21** **A.** Again, question.

02:56:24 **22** BY MR. SOFER:

02:56:24 **23** **Q.** Have you had arguments with your son, Mohammad Amawi,

-08:-44:-38 **24** about some of his radical beliefs?

02:56:42 **25** **A.** Mohammad, the difference or the dispute between us and

-08:-44:-38 **1** him is the beard in Islam is that Sunni or --

02:57:04 **2** THE WITNESS: Shave my beard.

02:57:06 **3** **A.** Mohammad is right, and I'm wrong, because I shaved my

02:57:11 **4** beard.

-08:-44:-38 **5** BY MR. SOFER:

-08:-44:-38 **6** **Q.** He would actually be angry with you for not having grown

02:57:15 **7** your beard longer, correct?

02:57:23 **8** **A.** We are a family from the ocean.

02:57:29 **9** **Q.** That's not my question. Let's try again.

-08:-44:-38 **10** Would it be fair to say that your son would

02:57:48 **11** disagree with you for not having grown your beard, yes or no?

02:58:10 **12** **A.** There is no fight because fighting is hitting. We have

-08:-44:-38 **13** a disagreement. He wants -- he likes the beard to be long and

02:58:20 **14** I don't want it to be long.

-08:-44:-38 **15** **Q.** But he wasn't always like that, was he?

02:58:30 **16** **A.** I don't understand the question.

02:58:32 **17** **Q.** Well, this notion of growing the beard happened around

02:58:36 **18** 2003-2004 during his visit with you, correct?

02:58:52 **19** **A.** He grew his beard in 2001 when I was in United States.

02:59:03 **20** And when he wanted to go to a restaurant that he was working at,

-08:-44:-38 **21** they used to tell him you either shave your beard or there is no

-08:-44:-38 **22** work because the beard -- the hair from the beard could be

-08:-44:-38 **23** dropped down in the food.

02:59:25 **24** **Q.** So it's your testimony --

02:59:30 **25** **A.** So my point of view was to shave his beard so he would

-08:-44:-38 **1** be able to work in the restaurant.

02:59:38 **2** **Q.** Okay. In 2003 and 2004, is it your testimony to the

-08:-44:-38 **3** jury that you did not see a change in your son's appearance or

02:59:47 **4** attitudes?

03:00:01 **5** **A.** In 2003 my son had an emotional distress.

03:00:08 **6** **Q.** And part of that was because his then fiancée's family

03:00:12 **7** told him that she was dead, right, even though she wasn't?

03:00:24 **8** **A.** Correct.

03:00:26 **9** **Q.** And it was around that time when he started to change in

03:00:30 **10** his attitude and his beliefs and in his appearance; isn't that

-08:-44:-38 **11** correct?

03:00:46 **12** **A.** That's not right. And the reason is -- the reason, he

03:00:56 **13** tried to get engaged to somebody in Jordan, and her family asked

03:01:11 **14** for his father's approval. I refused. I told him you have to

-08:-44:-38 **15** finish your study. You go work in United States off in a

03:01:31 **16** store; you are free.

03:01:34 **17** **Q.** Okay. Let's talk about when Darren Griffin came and

03:01:39 **18** visited your family in 2005, okay?

03:01:47 **19** **A.** Okay.

-08:-44:-38 **20** **Q.** Darren Griffin and your son were friends, right?

03:02:01 **21** **A.** Apparently, yes.

03:02:03 **22** **Q.** And you said eventually that you gave Darren Griffin a

-08:-44:-38 **23** three bedroom and three bathroom guest house to stay in; is that

03:02:23 **24** correct?

03:02:23 **25** **A.** He offered to pay money for the apartment. But based

03:02:33 **1** on Mohammad's request we kept him as a visitor.

-08:-44:-38 **2** **Q.** So he offered to pay but Mohammad said no, he shouldn't?

03:02:48 **3** **A.** Yes.

03:02:49 **4** **Q.** And is this guest home within the larger home that you

-08:-44:-38 **5** own?

03:03:05 **6** **A.** I have a house with five floors, and this is one of

03:03:13 **7** those floors.

03:03:15 **8** **Q.** Are we able to show him something from the

-08:-44:-38 **9** government's -- let's put up, I believe it's -- I'm going to ask

-08:-44:-38 **10** you, sir, if you can see this photograph. Can you see that ?

03:03:46 **11** MS. GRILL: We see blue. Blue right now.

03:03:49 **12** BY MR. SOFER:

03:03:49 **13** **Q.** You own a pretty big house?

03:03:55 **14** MS. GRILL: One moment. We're seeing a blue

03:03:57 **15** screen again. It went black then blue.

03:04:12 **16** We see the picture now.

03:04:20 **17** BY MR. SOFER:

03:04:20 **18** **Q.** This is your home, correct, sir?

03:04:24 **19** **A.** Yes.

03:04:25 **20** **Q.** And I don't know if you can see it, but there's a car

03:04:28 **21** parked in the driveway there; is that correct?

03:04:41 **22** **A.** I can't see it.

-08:-44:-38 **23** **Q.** It's on the right side of the photograph, if you can

03:04:47 **24** direct your attention to the right side of the photograph.

-08:-44:-38 **25** There appears to be a Jeep over there, can you see that?

03:05:01 **1** A. I don't have a good vision. I can't see it very well.

-08:-44:-38 **2** Q. Okay. Nevertheless, this giant house that we see here

-08:-44:-38 **3** is yours, correct?

03:05:24 **4** THE WITNESS: Yes.

-08:-44:-38 **5** BY MR. SOFER:

-08:-44:-38 **6** Q. And you rent out part of that home, correct?

03:05:30 **7** A. I rented the house. This house is mine. How am I

-08:-44:-38 **8** going to rent it.

-08:-44:-38 **9** Q. I understood that maybe you rented out floors of the

03:05:38 **10** house to different tenants.

03:05:51 **11** A. An American priest rented out the house for two years.

-08:-44:-38 **12** Q. That's not my question. Do you rent out any rooms or

03:05:59 **13** floors of the home to other people?

03:06:09 **14** A. Yes.

03:06:10 **15** Q. And in some way that supplements your income, correct?

03:06:23 **16** A. Sometimes, yes. The house is furnished.

03:06:39 **17** THE INTERPRETER: Can I ask him again, Your Honor?

-08:-44:-38 **18** A. Because the house is furnished, sometimes it's rented,

03:06:57 **19** and sometimes it's not.

03:06:59 **20** BY MR. SOFER:

03:06:59 **21** Q. Understood. When Mr. Griffin came, though, you let him

03:07:04 **22** stay for free, correct?

03:07:11 **23** A. Correct.

-08:-44:-38 **24** Q. And you said he ate breakfast, lunch and dinner with you

03:07:16 **25** for much of the time that he was there in the first visit or

03:07:19 **1** some of the time that he was there in the first visit, correct?

03:07:30 **2** **A.** Yes.

03:07:31 **3** **Q.** And he was brought into your home by your son, correct?

03:07:39 **4** **A.** Yes.

-08:-44:-38 **5** **Q.** And you didn't charge him for any of these things

-08:-44:-38 **6** because, as you testified, he was like one of the family,

-08:-44:-38 **7** correct? You didn't charge him for food and lodging because

03:07:51 **8** you treated him like one of the family, correct?

03:08:10 **9** **A.** Based on my son, yes, my son told me, Darren Griffin, 90

-08:-44:-38 **10** percent is an FBI, and we have to respect him and appreciate

-08:-44:-38 **11** him.

03:08:27 **12** **Q.** He told you that he was with the FBI?

03:08:38 **13** **A.** Yes, he said 90 percent. He said yes, he is 90 percent

03:08:58 **14** FBI, 10 percent Muslim. I do remember his religion. I have to

-08:-44:-38 **15** do what I have to do.

-08:-44:-38 **16** **Q.** When did he say this to you, that he was with the FBI?

-08:-44:-38 **17** On the first trip or the second trip?

03:09:20 **18** **A.** The first visit, and he asked Mohammad to travel to

03:09:29 **19** Syria.

03:09:32 **20** **Q.** And you let your son --

-08:-44:-38 **21** **A.** And Mohammad.

03:09:38 **22** THE WITNESS: Mohammad told my wife.

03:09:41 **23** **A.** And Mohammad told my wife.

03:09:52 **24** MR. SOFER: Sir, I'm sorry to interrupt.

03:09:58 **25** THE COURT: Sir, please wait for the next question.

03:10:10 **1** Do not translate that last answer. Explain to him he cannot
-08:-44:-38 **2** testify about what his wife may have told him about what his son
-08:-44:-38 **3** said.

03:10:33 **4** THE WITNESS: Okay.

03:10:49 **5** A. If you please.

03:10:50 **6** THE COURT: Tell him please he cannot speak except
-08:-44:-38 **7** in answer to a question. And there is no question pending.

03:11:02 **8** THE WITNESS: Okay.

-08:-44:-38 **9** THE COURT: Mr. Sofer, you may continue.

-08:-44:-38 **10** BY MR. SOFER:

-08:-44:-38 **11** Q. Sir, have you ever seen your son watch videos of the
-08:-44:-38 **12** murders of American troops?

03:11:16 **13** THE INTERPRETER: Can I ask again for the question?

-08:-44:-38 **14** BY MR. SOFER:

-08:-44:-38 **15** Q. Have you ever seen your son watch videos depicting the
03:11:22 **16** murder of American troops?

03:11:30 **17** A. Many times.

03:11:32 **18** Q. And have you ever seen your son and discuss with your
-08:-44:-38 **19** son his beliefs about beheading American contractors?

03:12:03 **20** MR. SOFER: I can't even understand what you're
-08:-44:-38 **21** saying but I'm asking you for a yes or no answer, please.

-08:-44:-38 **22** Please, just yes or no.

03:12:20 **23** THE WITNESS: Sorry.

03:12:25 **24** BY MR. SOFER:

03:12:26 **25** Q. Have you ever seen your son watch videos in which

03:12:30 **1** American contractors were beheaded or other people were

03:12:34 **2** beheaded, that is had their heads cut off?

03:12:48 **3** **A.** Yes.

03:12:49 **4** **Q.** And have you listened to his opinions about the war in
-08:-44:-38 **5** Iraq and President Bush? Yes or no, please.

03:13:11 **6** **THE WITNESS:** Yes.

-08:-44:-38 **7** **A.** Yes.

03:13:13 **8** **BY MR. SOFER:**

03:13:13 **9** **Q.** And have you ever heard your son threaten the life of
03:13:17 **10** the king of Jordan?

03:13:25 **11** **THE WITNESS:** No.

-08:-44:-38 **12** **BY MR. SOFER:**

-08:-44:-38 **13** **Q.** Have you ever heard him speak badly about the king of
-08:-44:-38 **14** Jordan?

03:13:34 **15** **THE WITNESS:** No.

-08:-44:-38 **16** **BY MR. SOFER:**

-08:-44:-38 **17** **Q.** That would be a crime in Jordan, correct?

03:13:41 **18** **A.** Yes.

-08:-44:-38 **19** **Q.** And have you ever heard your son threaten the life of
03:13:46 **20** President Bush?

03:13:56 **21** **A.** All the Arabic nation is threatening Bush.

-08:-44:-38 **22** **Q.** I understand. I'm asking whether your son has
03:14:05 **23** threatened the life of President Bush in your presence.

03:14:19 **24** **A.** I don't recall such things.

03:14:21 **25** **Q.** And are you aware of the good relationship between the

-08:-44:-38 **1** United States and Jordan, the Jordanian government?

03:14:38 **2** **A.** Yes.

-08:-44:-38 **3** **Q.** In fact, you were a beneficiary of that good

03:14:42 **4** relationship when you came here as a military attache' -- or

-08:-44:-38 **5** with the military attache's office, I should say?

03:14:57 **6** **A.** My flesh and my blood from the Jordanian Army.

03:15:07 **7** **Q.** And you treated Darren Griffin like a member of the

-08:-44:-38 **8** family; is that right?

03:15:15 **9** THE WITNESS: I have to.

03:15:17 **10** THE COURT: Mr. Sofer, about how much longer?

-08:-44:-38 **11** MR. SOFER: I think I'm wrapping up, Judge. I

-08:-44:-38 **12** have no further questions. Actually, if you give, me moment to

-08:-44:-38 **13** talk with my colleagues, I'd appreciate it.

03:15:56 **14** THE JUROR: Your Honor, would you ask the

03:15:59 **15** translators if they'd stand like this gentleman is now. When

-08:-44:-38 **16** she was turned out of the way you could hear a lot of it but we

-08:-44:-38 **17** weren't catching the whole thing.

03:16:10 **18** THE COURT: In the future if you'll let us know

03:16:13 **19** immediately.

-08:-44:-38 **20** THE JUROR: I didn't know if I could interrupt.

03:16:23 **21** MR. SOFER: Nothing, Judge.

03:16:25 **22** THE COURT: Any redirect?

03:16:28 **23** MS. CLEARY: Just a moment, Your Honor.

03:16:55 **24** (Discussion had off the record.)

03:17:43 **25** MS. CLEARY: Just a few questions, Your Honor.

03:17:50 **1** - - -

03:17:50 **2** ZAKI AMAWI, REDIRECT EXAMINATION

03:17:51 **3** BY MS. CLEARY:

03:17:51 **4** **Q.** Mr. Amawi, I just have a few more questions for you,

03:17:51 **5** sir.

03:19:58 **6** (Video connection is lost).

03:20:11 **7** (Discussion had off the record.)

03:21:13 **8** THE COURT: Ladies and gentlemen, just to let you

-08:-44:-38 **9** know, Mrs. Grill, the lawyer over there, may be acceptable by

03:21:24 **10** telephone to simply let her know we lost the connection, and

-08:-44:-38 **11** also to confirm that this witness might be available later on

03:21:35 **12** sometime early evening in Jordan. We'll simply -- why don't

03:21:44 **13** you let us know when you reach her.

03:21:48 **14** Mr. Ivey, Mr. Rich, see if we can take a lunch

03:21:53 **15** break now and resume at 1:00 our time. That will give the

03:21:58 **16** people a chance to put things back together.

-08:-44:-38 **17** And if worse came to worst, I would suggest,

-08:-44:-38 **18** Counsel, that we simply, if we can not reconnect with the video,

-08:-44:-38 **19** if possible reconnect through a telephone link and at least get

-08:-44:-38 **20** the questions, simply take the rest of this testimony by

03:22:18 **21** telephone if that's possible. The main thing is to see if we

03:22:25 **22** can reach Mrs. Grill.

03:23:41 **23** (Discussion had off the record.)

03:23:42 **24** (Whereupon the following discussion was had at the

03:25:57 **25** bench outside the hearing of the jury:)

03:25:57 **1** THE COURT: Dale tells me that they're not picking
-08:-44:-38 **2** up at the other side. In other words, apparently you're
-08:-44:-38 **3** dialing into that conference room.

-08:-44:-38 **4** VIDEO TECHNICIAN: That side dropped us. Now
-08:-44:-38 **5** nothing's there to answer.

-08:-44:-38 **6** THE COURT: The problem may be they purchased only
-08:-44:-38 **7** so much time then it got cut off. We'll take a lunch break
-08:-44:-38 **8** until 1:00. If you people can try to reach somebody, try to
-08:-44:-38 **9** reach Donna and see if at least what can be done and let us
-08:-44:-38 **10** know. And we'll go from there because, obviously, -- Mr.
-08:-44:-38 **11** Amawi, if we can't put this back together today, we'll have to
-08:-44:-38 **12** do it tomorrow morning. If we have to start a half-hour
-08:-44:-38 **13** earlier. Do what you can during the lunch hour and we'll go
-08:-44:-38 **14** from there.

-08:-44:-38 **15** (End of side-bar discussion)

-08:-44:-38 **16** THE COURT: Ladies and gentlemen, we are
-08:-44:-38 **17** experiencing problems reestablishing the connection. So we'll
-08:-44:-38 **18** take our lunch break until about 1:15. We'll see whether we can
-08:-44:-38 **19** go from there. And don't talk about the case, keep an open
-08:-44:-38 **20** mind, have a pleasant lunch. We'll see you at 1:15.

03:26:05 **21** (Lunch recess taken.)

04:38:15 **22** THE COURT: Apparently what happened, some
04:38:18 **23** equipment malfunctioned with the T1, whatever that is, maybe not
04:38:26 **24** even inside the building. So all the phones aren't working.
04:38:29 **25** Were you able to reach --

04:38:32 **1** MS. CLEARY: We were. We can restart again
-08:-44:-38 **2** tomorrow morning.

-08:-44:-38 **3** THE COURT: Apparently it's going to be 2 to 3
-08:-44:-38 **4** hours at least until that gets fixed. I'll explain all of that
04:38:49 **5** to the jury.

-08:-44:-38 **6** MR. SOFER: Judge, we'll probably then, with the
-08:-44:-38 **7** extra time, ask to fax at least one more Government Exhibit or
04:38:56 **8** e-mail that over. We'll talk to Ms. Cleary.

04:41:38 **9** (Jury enters the courtroom.)

04:41:45 **10** THE COURT: Thank you for your patience. A couple
-08:-44:-38 **11** things. One of the reasons we're starting a bit late is each
04:41:51 **12** summer I have several interns, first-year law students who come
-08:-44:-38 **13** to the Court and actually do work for us. This is the time of
04:42:03 **14** year when they're starting. I had to meet with a couple of
04:42:06 **15** those. I also had conference during the noon hour. But the
-08:-44:-38 **16** work with the interns is one of the most pleasant aspects of
-08:-44:-38 **17** what we do here.

04:42:17 **18** It turns out that the technical problem had nothing
04:42:22 **19** to do with what we were trying to do, but apparently there's a
-08:-44:-38 **20** component called the T1, which I think is a trunk junction,
-08:-44:-38 **21** through which all incoming and outgoing calls have to be routed.
04:42:43 **22** Apparently that has failed somewhere, perhaps not even in this
04:42:47 **23** building but perhaps other phone service elsewhere, downtown or
-08:-44:-38 **24** who knows where is being affected. It could take two to three
-08:-44:-38 **25** hours at least to get that fixed. So what we're going to do is

-08:-44:-38 **1** we will interrupt the testimony by Mr. Amawi, which of course we
04:43:02 **2** took as an interruption in Mr. Mazloun's presentation of his
04:43:07 **3** case. We hope, we understand, and assuming that the service
-08:-44:-38 **4** has been restored, that we will be able to resume and complete
-08:-44:-38 **5** Mr. Amawi's testimony tomorrow with redirect and recross.
04:43:22 **6** So we are now going to go back and resume the
04:43:27 **7** presentation of Mr. Mazloun's case. One thing occurred to me,
-08:-44:-38 **8** too. You witnessed the strenuous kind of work that interpreting
04:43:37 **9** requires. You should understand that the interpreters aren't
04:43:43 **10** hired by the parties. They're neutral. You shouldn't think
04:43:46 **11** these interpreters are somehow defense interpreters or whatever.
-08:-44:-38 **12** They're simply there in an entirely neutral capacity to
04:43:56 **13** translate from one language into another.
04:44:04 **14** Mr. Helmick, Mr. Doughten?
04:44:08 **15** MR. HELMICK: It will be Mr. Abdrabboh calling our
-08:-44:-38 **16** next witness.
-08:-44:-38 **17** MR. ABDRABBOH: We call Salwa Elkhechen.
04:44:19 **18** THE COURT: I would ask the interpreters, there
-08:-44:-38 **19** were a number of names mentioned during the testimony. If you
-08:-44:-38 **20** can let the court reporter know how to spell them.
-08:-44:-38 **21** And you previously have been sworn to translate
04:44:44 **22** from Arabic into English.
04:44:53 **23** If you will, tell the witness, if she can, raise
-08:-44:-38 **24** her right hand, please.
04:45:19 **25** (The witness was sworn by the clerk.)

04:45:38 **1** THE COURT: You may be seated.

04:45:47 **2** Actually, to the interpreter, maybe if you can

-08:-44:-38 **3** stand on this side of her by the court reporter so that as you

-08:-44:-38 **4** are speaking with her. You also then -- maybe come a little

04:45:59 **5** closer, so that you're able to speak to the jury as well.

04:46:21 **6** If you can't hear, please let us know.

04:46:26 **7** MR. ABDRAABOH: Is the Court going to inquire or

-08:-44:-38 **8** may I proceed?

-08:-44:-38 **9** THE COURT: Will you tell us your name, please?

04:46:33 **10** THE WITNESS: Salwa Elkhechen.

04:46:37 **11** THE COURT: What is your city or community of

-08:-44:-38 **12** residence?

04:46:46 **13** THE WITNESS: Here in the United States?

-08:-44:-38 **14** THE COURT: Yes.

04:46:49 **15** THE WITNESS: Sylvania. Yes.

-08:-44:-38 **16** THE COURT: How long have you lived in Sylvania?

04:46:57 **17** THE WITNESS: Four years in Sylvania. And before,

-08:-44:-38 **18** four years in Toledo.

04:47:04 **19** THE COURT: And is that when you came to this

04:47:07 **20** country, about eight years ago?

04:47:11 **21** THE WITNESS: Yes.

04:47:12 **22** THE COURT: What is your home land?

04:47:14 **23** THE WITNESS: Lebanon.

04:47:17 **24** THE COURT: And are you a resident alien or are you

-08:-44:-38 **25** a citizen or are you learning to become a citizen?

04:47:30 **1** THE WITNESS: I am a citizen. I'm an American
04:47:33 **2** citizen.

-08:-44:-38 **3** THE COURT: When did you become a citizen?

04:47:37 **4** THE WITNESS: 2005.

04:47:39 **5** THE COURT: I gather that you understand some
-08:-44:-38 **6** English but you feel more comfortable testifying in your native
04:47:46 **7** language?

04:47:50 **8** THE WITNESS: Correct.

-08:-44:-38 **9** THE COURT: That's perfectly all right.

04:47:55 **10** THE INTERPRETER: I'm sorry, Your Honor.

04:47:57 **11** THE COURT: That's perfectly all right, of course.

04:47:59 **12** MR. ABDRAABOH: May I, Your Honor?

-08:-44:-38 **13** THE COURT: Of course.

-08:-44:-38 **14** - - -

04:44:16 **15** SALWA ELKHECHEN, DIRECT EXAMINATION

04:48:02 **16** BY MR. ABDRAABOH:

04:48:02 **17** **Q.** Mrs. Elkhechen, can you tell the ladies and gentlemen of
-08:-44:-38 **18** the jury where you were born?

04:48:24 **19** THE COURT: Let me interrupt. Can you spell the
-08:-44:-38 **20** witness's name for us?

04:48:31 **21** MR. ABDRAABOH: The first name is S-A-L-W-A, and
04:48:37 **22** Elkhechen --

04:48:38 **23** THE WITNESS: E-L-K-E-C-h-E-N.

04:48:46 **24** BY MR. ABDRAABOH:

04:48:46 **25** **Q.** Mrs. Elkhechen, what year were you born?

04:48:54 **1** MR. HERDMAN: I didn't hear the answer translated.

04:48:57 **2** **A.** I am Salwa Elkhechen. I'm from Lebanon, West Beqaa;

04:49:01 **3** I'm from Sahrem town, and --

-08:-44:-38 **4** THE INTERPRETER: I've lost the last sentence, Your

04:49:07 **5** Honor.

04:49:08 **6** **A.** Zehla Province.

04:49:10 **7** BY MR. ABDRABBOH:

04:49:10 **8** **Q.** What year were you born?

-08:-44:-38 **9** **A.** 1961.

-08:-44:-38 **10** **Q.** Can you tell us geographically where the village is

04:49:23 **11** located that you grew up in?

04:49:40 **12** **A.** It's the south north of Beirut.

-08:-44:-38 **13** **Q.** How far is that from Beirut?

04:49:56 **14** **A.** One hour and 15 minutes driving.

-08:-44:-38 **15** MR. SOFER: May we approach, Your Honor?

04:50:01 **16** (Whereupon the following discussion was had at the

04:51:28 **17** bench outside the hearing of the jury:)

04:51:28 **18** MR. SOFER: Our translator again -- and again, I

-08:-44:-38 **19** don't mean to cause trouble for translators or anything like

-08:-44:-38 **20** that, but south north I think would indicate an internal

-08:-44:-38 **21** inconsistency, and our translator said she said southeast.

-08:-44:-38 **22** MR. ABDRABBOH: The reason I asked Beirut was I was

-08:-44:-38 **23** going to try to sort it out.

-08:-44:-38 **24** MR. SOFER: I'm sorry. I don't want to mess you

-08:-44:-38 **25** up.

-08:-44:-38 **1** MR. ABDRABBOH: By the way, I don't disagree with

-08:-44:-38 **2** Mr. Sofer. Speaking the language, I caught a couple things.

-08:-44:-38 **3** When that happens, I'm going to try to re-ask the question.

-08:-44:-38 **4** (End of side-bar discussion.)

04:51:33 **5** THE COURT: You may continue.

04:51:35 **6** BY MR. ABDRABBOH:

04:51:35 **7** Q. Ms. Elkhechen, for clarification, can you describe

04:51:42 **8** geographically where your village is located?

04:52:10 **9** A. We are at the end of the eastern Beqaa, which is about

-08:-44:-38 **10** three kilometers from the south. And between us and the south,

04:52:24 **11** about three villages.

04:52:28 **12** Q. I'm sorry, the south of what?

04:52:32 **13** A. South of Lebanon.

04:52:34 **14** Q. How far is the village you grew up in from Beirut?

04:52:45 **15** A. An hour and so in the car.

04:52:49 **16** Q. And how far, if you know, approximately is your village

-08:-44:-38 **17** from the Syrian border?

04:53:00 **18** A. Almost the same time, about one hour or so.

-08:-44:-38 **19** Q. Can you briefly describe some of the -- I'm going to

04:53:10 **20** talk to you about some of the characteristics of your village.

-08:-44:-38 **21** I'd like you to briefly tell the ladies and gentlemen of the

04:53:17 **22** jury, if you know, the approximate population of your village.

04:53:31 **23** A. Before I got married it was about 6,000 individuals.

04:53:45 **24** Q. What year was that she's describing?

04:53:49 **25** A. Before the '80s.

04:53:54 **1** Q. And after 1980?

04:54:00 **2** A. Of course, definitely it will be increased. Right now

-08:-44:-38 **3** it's about 12,000.

-08:-44:-38 **4** Q. Can you describe whether your village was agricultural

04:54:17 **5** or industrial?

04:54:25 **6** A. It's almost all agriculture and trade.

-08:-44:-38 **7** Q. You testified that you were born in this village; is

04:54:36 **8** that correct?

04:54:36 **9** A. Yes.

04:54:38 **10** Q. How long did you live there?

04:54:41 **11** A. 19 years.

04:54:43 **12** Q. Did there come a time when you moved?

04:54:50 **13** A. When I got married.

-08:-44:-38 **14** Q. And what year, if you remember, did you get married?

04:55:02 **15** A. 1980.

-08:-44:-38 **16** Q. To whom did you get married to?

04:55:06 **17** A. I got married to Wassim's father, Ebraheim Mazloun.

04:55:16 **18** Q. Were children born of the marriage?

04:55:20 **19** A. Wassim, Bilal, Dima, Diana.

04:55:29 **20** Q. Can you tell the ladies and gentlemen of the jury their

-08:-44:-38 **21** approximate dates of birth or ages?

04:56:06 **22** A. Wassim was born in May 22, 1981. Bilal was born in

-08:-44:-38 **23** August 25, 1984. Dima was born in August 1, 1991, and Diana was

-08:-44:-38 **24** born in April -- April 16, 1994.

04:56:36 **25** Q. I'm going to take you back a little bit. After you got

04:56:40 **1** married did you remain in the same village?

04:56:47 **2** THE WITNESS: No.

04:56:48 **3** A. No. I moved to my husband's town.

-08:-44:-38 **4** BY MR. ABDRABBOH:

-08:-44:-38 **5** Q. What's the name of that town?

04:56:56 **6** A. Jiyeh.

04:56:59 **7** Q. Was there a reason you decided to relocate to Jiyeh?

04:57:09 **8** A. The reason is in our religion, the woman has to follow

-08:-44:-38 **9** her husband's town.

04:57:18 **10** Q. Would that be a religion or culture?

04:57:23 **11** A. It's cultural.

04:57:28 **12** Q. I'm going to move ahead to the year 1981. You

04:57:36 **13** testified that the accused, Wassim Mazloun, was born in 1981; is

-08:-44:-38 **14** that correct?

-08:-44:-38 **15** THE WITNESS: Yes.

04:57:46 **16** A. Yes.

-08:-44:-38 **17** BY MR. ABDRABBOH:

-08:-44:-38 **18** Q. What, if any, political conflicts were going on in

04:57:51 **19** Lebanon when Wassim was born?

04:57:54 **20** A. In Lebanon?

04:58:03 **21** Q. In Lebanon.

04:58:05 **22** A. At the time Wassim was born in 1981, Israel took over a

-08:-44:-38 **23** number of villages in Lebanon, and Syria took Beqaa and north of

04:58:43 **24** Lebanon and Beirut.

04:58:49 **25** Q. I'm going to move you to 1982. What, if any, political

-08:-44:-38 **1** conflicts were going on in 1982?

04:58:57 **2** MR. HERDMAN: Your Honor, I object just to the

04:59:01 **3** extent I don't know if we're going to go year by year here.

04:59:04 **4** MR. ABDRABBOH: No.

-08:-44:-38 **5** THE COURT: That's fine.

04:59:09 **6** Did you complete the question?

04:59:11 **7** THE INTERPRETER: No. No, Your Honor.

-08:-44:-38 **8** THE COURT: Do you recall the question?

04:59:14 **9** THE INTERPRETER: Yes.

04:59:46 **10** **A.** In late 1981, there was fear, horror because Syria was

04:59:56 **11** threatening Israel. At the same time Israel was threatening

05:00:02 **12** Syria. In 1982 Israel went into Lebanon and became about two

05:00:08 **13** kilometers away from where I was living.

05:00:08 **14** BY MR. ABDRABBOH:

05:00:14 **15**

05:00:14 **16** **Q.** How did those events affect your life in Lebanon?

05:00:43 **17** MR. ABDRABBOH: I'm going to stop. If the Court

-08:-44:-38 **18** would instruct the witness just to go two sentences at a time.

05:00:53 **19** THE COURT: Say because what she's saying has to be

05:00:57 **20** translated, if she could just try to speak and then pause

05:01:02 **21** perhaps after a sentence or two.

05:01:08 **22** Let me also say to the interpreter, if you want to

-08:-44:-38 **23** go like that (motions) to let her know to pause, that's fine.

-08:-44:-38 **24** Maybe explain that to her. If she's going too fast, you'll

05:01:31 **25** signal somehow so you can keep up.

05:01:41 **1** A. In 1982 when Israel went inside a town and it became
-08:-44:-38 **2** about two kilometers away from our town, and at the same time
05:01:51 **3** Syria, it was in the heart of our town and on the borders -- I'm
-08:-44:-38 **4** sorry, not in the borders, on the sides of our countries, we
-08:-44:-38 **5** became between two fires. We became on the fire line.

05:02:08 **6** MR. ABDRABBOH: And those fires were? Did she
05:02:11 **7** describe the sides of the two fires? That's what you just
05:02:15 **8** translated?

-08:-44:-38 **9** A. Fire, not --

-08:-44:-38 **10** THE INTERPRETER: Fire, not fires.

-08:-44:-38 **11** BY MR. ABDRABBOH:

-08:-44:-38 **12** Q. Who was the fire between?

05:02:27 **13** A. Between the Israeli and between Syrian, and we were in
05:02:32 **14** the middle.

05:02:33 **15** Q. What, if anything, did you do about the event, how those
05:02:39 **16** events affected your life?

05:02:43 **17** THE INTERPRETER: Can you repeat the question,
-08:-44:-38 **18** please, Counsel?

05:02:46 **19** BY MR. ABDRABBOH:

05:02:46 **20** Q. What, if anything, did you and your family do about
-08:-44:-38 **21** those events and as they affected daily life?

05:02:55 **22** A. When we became in the middle, we -- our life were
05:03:13 **23** jeopardized. We were in danger, so we decided to go to Beirut
05:03:17 **24** because Beirut is the capital of our country. Because Beirut
05:03:27 **25** is the capital, and it has basement for protection. And in our

-08:-44:-38 **1** town there is no basement for protection, and there's no place
05:03:39 **2** to hide in.

05:03:42 **3** **Q.** Were there any other conflicts going on in Lebanon at
-08:-44:-38 **4** the same time?

05:03:59 **5** **A.** After we went to Beirut in '82, Israel was already by
05:04:05 **6** the side of Beirut. We went to Beirut to hide. And we stayed
-08:-44:-38 **7** in the basement over there, protection basements for five months
05:04:27 **8** because we were not able to go outside. We were living in fear.
-08:-44:-38 **9** We were living in horror. Explosion everywhere.

05:04:42 **10** THE INTERPRETER: Your Honor, can I look it up in
-08:-44:-38 **11** my dictionary?

-08:-44:-38 **12** THE COURT: Of course. Certainly.

05:04:58 **13** **A.** Ambush everyone.

05:05:03 **14** THE INTERPRETER: This is the way she said it, Your
05:05:07 **15** Honor.

-08:-44:-38 **16** **A.** Should I continue?

05:05:09 **17** THE COURT: Yes.

05:05:17 **18** THE INTERPRETER: Can I ask her to repeat what she
-08:-44:-38 **19** said, Your Honor?

05:05:24 **20** **A.** At this time Israel went by the side of Beirut. At

05:05:32 **21** that time we were living in the basement, protection basement

05:05:35 **22** for five months because there was a lot of massacres, explosion

05:05:48 **23** on the roads. You never predict when the explosion is going to

05:05:52 **24** come up. We stayed like this for five months.

05:06:02 **25** BY MR. ABDRABOH:

- 05:06:02 **1** Q. How old was Wassim at that time?
- 05:06:06 **2** A. He did not finish the two years.
- 05:06:08 **3** Q. Moving along, Mrs. Elkhechen, to 1991, what, if any,
- 05:06:23 **4** political conflicts were going on in Lebanon in 1991?
- 05:06:36 **5** A. 1991?
- 05:06:39 **6** Q. That's correct.
- 05:06:41 **7** A. Can I say something before that.
- 05:06:43 **8** Q. No. If you don't recall, that's fine. I'll move on.
- 05:07:01 **9** A. During 1991 the refugees war started between the
- 08:-44:-38 **10** Palestinian and the Lebanese. Should I continue?
- 05:07:15 **11** Q. Continue.
- 05:07:29 **12** A. At that time when Israel went inside Lebanon, people of
- 05:07:33 **13** Lebanon split into two halves; one against and one with. 1991
- 05:07:48 **14** the refugees' camps, war started. The refugee camps started
- 05:07:58 **15** between the Palestinian and one of the Lebanese party.
- 05:08:03 **16** Q. Would you describe that as an internal war?
- 05:08:10 **17** A. Correct. It's a civil war.
- 05:08:13 **18** Q. How old was Wassim Mazloun in 1991?
- 05:08:20 **19** A. Ten years.
- 08:-44:-38 **20** Q. Did he live with you?
- 05:08:24 **21** A. Yes.
- 05:08:26 **22** Q. To the best of your knowledge, what, if any, effect did
- 08:-44:-38 **23** those events have on Wassim Mazloun?
- 05:08:34 **24** MR. HERDMAN: Objection.
- 08:-44:-38 **25** THE COURT: Why don't you come on upside.

05:12:08 **1** (Whereupon the following discussion was had at the
-08:-44:-38 **2** bench outside the hearing of the jury:)

-08:-44:-38 **3** MR. HERDMAN: The basis of the objection, it calls
-08:-44:-38 **4** for speculation on behalf of the witness with respect to how it
-08:-44:-38 **5** affected the defendant. And this is precisely the testimony,
-08:-44:-38 **6** if we -- we discussed this. This is specifically the testimony
-08:-44:-38 **7** Mr. Abdrabboh was not going to get into, how this affected
-08:-44:-38 **8** Wassim.

-08:-44:-38 **9** MR. ABDRABBOH: We're attempting to put on evidence
-08:-44:-38 **10** to rebut directly the witness came from a background of a war
-08:-44:-38 **11** torn country in self-defense. A lot. I'm allowed a little
-08:-44:-38 **12** latitude, I think, to tie that in.

-08:-44:-38 **13** THE COURT: What do you expect she'll say?

-08:-44:-38 **14** MR. ABDRABBOH: To that question she'll say he was
-08:-44:-38 **15** there. He observed somewhat the things that occurred on a
-08:-44:-38 **16** daily basis, but that's it. There's only three more years I
-08:-44:-38 **17** want to get into. I've already gone through two.

-08:-44:-38 **18** THE COURT: That's fine. Two things I think you
-08:-44:-38 **19** can ask was -- was Wassim with you while these events were
-08:-44:-38 **20** occurring, and how old was he again, and did you observe any
-08:-44:-38 **21** particular effects on him? In other words, I think she can
-08:-44:-38 **22** testify, I don't know, waking up in the middle of the night
-08:-44:-38 **23** screaming or he went about his business. I don't know what the
-08:-44:-38 **24** answer is going to be. But I think she can testify as to her
-08:-44:-38 **25** observation as a mother and so forth, but I don't think the way

-08:-44:-38 **1** it was phrased...

-08:-44:-38 **2** MR. HERDMAN: I'm just giving notice I may object

-08:-44:-38 **3** if she starts saying about how Wassim -- what he said. If it's

-08:-44:-38 **4** some sort of physical manifestation, I'm not going to object.

-08:-44:-38 **5** THE COURT: He quit going to school, or he said he

-08:-44:-38 **6** was afraid or he hid under the bed every night. I think she

-08:-44:-38 **7** can testify to her observation, whether he was with her during

-08:-44:-38 **8** this period, and what effect, if any, did she observe in him on

-08:-44:-38 **9** him.

-08:-44:-38 **10** MR. SOFER: I was just going to ask again what the

-08:-44:-38 **11** connection between this and the case is because I'm not fully

-08:-44:-38 **12** understanding that.

-08:-44:-38 **13** MR. ABDRABOH: Just the government's position was

-08:-44:-38 **14** that he was in a hurry to go to Lebanon, was in a rush to get

-08:-44:-38 **15** this training to go to Lebanon for various purposes. That's

-08:-44:-38 **16** one of the theories they put forward. We're just trying to put

-08:-44:-38 **17** forward the idea that he comes from this type of a country and

-08:-44:-38 **18** eventually I'll tie this into military service. It's mandatory

-08:-44:-38 **19** in the country of Lebanon.

-08:-44:-38 **20** (End of side-bar discussion.)

05:12:17 **21** THE INTERPRETER: I want to correct a word. When

-08:-44:-38 **22** she said protection basement. She said shelters or hideout.

05:12:23 **23** THE COURT: Okay. Thank you.

-08:-44:-38 **24** BY MR. ABDRABOH:

-08:-44:-38 **25** Q. When you were in the shelters and hideouts --

-08:-44:-38 **1** MR. ABDRABBOH: I'm sorry, were you just

05:12:36 **2** translating the last answer or were you going back?

-08:-44:-38 **3** THE INTERPRETER: Going back. For all the words

-08:-44:-38 **4** mentioned, "protection basements", she said shelters or hideout.

05:12:47 **5** BY MR. ABDRABBOH:

05:12:47 **6** Q. Mrs. Elkhechen, in 1991 during these events that you

-08:-44:-38 **7** described, was Wassim Mazloun with you?

05:13:01 **8** A. Yes.

05:13:03 **9** Q. Did you have the opportunity to observe Wassim Mazloun?

05:13:11 **10** A. Yes.

05:13:12 **11** Q. What, if anything, did you notice about how these events

-08:-44:-38 **12** affected Mr. Mazloun?

05:13:30 **13** A. I want to say something that the most important,

05:13:33 **14** important thing that affected him, he want work, but I want to

05:13:46 **15** mention something, during 1987 and 1988 we had a massacre in our

-08:-44:-38 **16** town.

05:13:53 **17** MR. HERDMAN: Objection.

-08:-44:-38 **18** THE COURT: I would agree. That last part I'm

05:13:58 **19** going to ask -- that's fine, I think she was being unresponsive.

05:14:09 **20** MR. ABDRABBOH: I'll ask the question again.

-08:-44:-38 **21** Ask the witness just to answer the question I'm

-08:-44:-38 **22** asking.

05:14:14 **23** THE COURT: Let her translate that, please.

-08:-44:-38 **24** A. In 1991 the camps wars started between the Palestinian

05:14:32 **25** and one of the Lebanese party. The people of Lebanon split

-08:-44:-38 **1** into two halves; some of them were with the Palestinian and they
05:14:47 **2** supported the Palestinian and the other half supported the
05:14:54 **3** Lebanese side. During this period of time I was in my town
05:15:04 **4** over my family during the summertime. The party which was
-08:-44:-38 **5** against the Palestinian, they were very popular in our town.
05:15:27 **6** And there were Palestinian, too. So there was fear, there was
-08:-44:-38 **7** horror, and they were killing people just based on the
05:15:41 **8** identification part. At that time we were so scared because
05:15:49 **9** they were walking on the street. The armed people were walking
05:15:58 **10** the street, and we were so scared of all the reaction because
-08:-44:-38 **11** the same village, the same town people were split into two
05:16:08 **12** halves.

-08:-44:-38 **13** At that time Wassim was ten years old and he was
05:16:17 **14** observing everything.

05:16:20 **15** MR. ABDRAABBOH: Can you please instruct the witness
05:16:22 **16** just to answer my question only?

05:16:22 **17** THE INTERPRETER: (Complied.)

05:16:29 **18** BY MR. ABDRAABBOH:

05:16:29 **19** Q. What year did you just describe?

05:16:41 **20** A. Describe right now? I'm describing to you the camp war
05:16:50 **21** which happened in 1991.

05:16:55 **22** Q. What, if any, effect did you observe on Wassim Mazloun
-08:-44:-38 **23** from these events?

05:17:17 **24** A. It affected everybody. We were deprived from
-08:-44:-38 **25** everything. We were living in shelters, we were in fear.

05:17:29 **1** Q. During that time period did Wassim -- was Wassim
05:17:33 **2** enrolled in school?
05:17:37 **3** A. Yes.
05:17:38 **4** Q. What was name of that school?
05:17:40 **5** A. Omar Al-Moktar Center.
-08:-44:-38 **6** Q. Was that a private school?
05:17:50 **7** A. Yes.
05:17:51 **8** Q. Was it a religious school?
05:17:54 **9** A. No.
05:17:56 **10** Q. I'm going to move ahead to 1993. What, if any,
-08:-44:-38 **11** political conflicts were going on in 1993?
05:18:23 **12** A. After -- in 1993 after Israel withdraw out of Lebanon
-08:-44:-38 **13** and stayed in the south of Lebanon -- I'm sorry, maybe you did
-08:-44:-38 **14** not translate it right. Late of 1982 they withdraw from
05:18:46 **15** Lebanon and they stayed in the south of Lebanon.
05:18:54 **16** In 1993, again they attack Lebanon. They attacked
-08:-44:-38 **17** again Lebanon. They stayed seven days. And we called it in
05:19:10 **18** Lebanon the Seven Days War. You can say that we stayed for
-08:-44:-38 **19** four days, day and night, under the explosion.
05:19:24 **20** Q. Okay. Was Wassim Mazloun with you at that time?
05:19:32 **21** A. Yes.
-08:-44:-38 **22** Q. Approximately how old was he?
05:19:39 **23** A. 1993, maybe 12 years.
-08:-44:-38 **24** Q. To the best of your observation did those events have an
05:19:50 **25** effect on Wassim Mazloun?

05:19:57 **1** A. Definitely. Definitely because he was so scared about
-08:-44:-38 **2** me and about his sisters because of his siblings were born.

05:20:11 **3** MR. HERDMAN: Objection.

05:20:12 **4** THE COURT: I would agree. The jury will disregard
-08:-44:-38 **5** any reference to him being scared for any particular reason or
-08:-44:-38 **6** about any person.

-08:-44:-38 **7** BY MR. ABDRAABBOH:

-08:-44:-38 **8** Q. Mrs. Elkhechen, I'd like to move you to 1996. Where
-08:-44:-38 **9** were you living in 1996?

05:20:52 **10** A. During the wintertime we were living in Wassim's
-08:-44:-38 **11** father's town because of the school. And during the summertime
-08:-44:-38 **12** I used to go to my town because anyway at that time Wassim's
-08:-44:-38 **13** father had left us, the summer of 1996 I was in my parents'
-08:-44:-38 **14** town.

05:21:19 **15** Q. What, if any, political conflicts occurred during that
05:21:23 **16** time period, 1996?

05:22:03 **17** A. At that time in 1996 Israel attacked Lebanon. This
-08:-44:-38 **18** attack was very, very strong military attack. They called
-08:-44:-38 **19** it -- at that time Israel called it anger grapes. And at that
-08:-44:-38 **20** time Kana massacre had happened, and there is another massacre
-08:-44:-38 **21** that happened in our town, in Zahmer town, and 20 individual get
-08:-44:-38 **22** killed. And two families -- and each family has two
05:22:37 **23** individuals.

05:22:42 **24** MR. ABDRAABBOH: I'm sorry, can you repeat that last
05:22:44 **25** part that you translated?

05:22:47 **1** THE INTERPRETER: Starting from the massacre of

05:22:50 **2** Kana?

-08:-44:-38 **3** MR. ABDRABBOH: After that.

05:22:54 **4** THE INTERPRETER: 20 person get killed and two

05:22:57 **5** families. In each family there was six persons.

05:23:00 **6** BY MR. ABDRABBOH:

05:23:00 **7** Q. Did you know any of those 20 victims?

05:23:06 **8** A. Of course. I know them all because in our town we know

-08:-44:-38 **9** all of each other.

05:23:15 **10** Q. Were any of them related to you?

05:23:19 **11** MR. HERDMAN: Objection, relevance.

05:23:26 **12** THE COURT: I'll let it stand. I assume you're

05:23:29 **13** moving on.

05:23:30 **14** A. One family was related to my parents.

05:23:34 **15** BY MR. ABDRABBOH:

05:23:34 **16** Q. Was Wassim living with you in 1996?

05:23:40 **17** A. Yes.

05:23:42 **18** Q. Did he observe any of the events you described?

05:23:48 **19** A. Yes.

05:23:50 **20** Q. What effects, if any, did you observe these events to

-08:-44:-38 **21** have on Wassim Mazloun?

05:24:01 **22** A. It affected him definitely. It affected him negatively

-08:-44:-38 **23** big time. He was observing us living under the explosion every

05:24:36 **24** day and planes everywhere. Every day in the sky. So he was

-08:-44:-38 **25** looking for something to do for us. He was looking at us and

-08:-44:-38 **1** he cannot find anything to do to get us out of this problems.

05:24:48 **2** **Q.** What about Wassim's father? Was Wassim's father living

-08:-44:-38 **3** with you in 1996?

05:24:59 **4** THE WITNESS: No.

05:25:00 **5** **A.** No.

-08:-44:-38 **6** BY MR. ABDRABBOH:

-08:-44:-38 **7** **Q.** Why not?

05:25:02 **8** **A.** We were separated, and he travelled.

05:25:08 **9** **Q.** What year were you separated?

05:25:11 **10** **A.** 1993.

-08:-44:-38 **11** **Q.** What effect, if any, did you observe that to have on

-08:-44:-38 **12** Wassim?

05:25:20 **13** MR. HERDMAN: Objection.

05:25:30 **14** THE COURT: I don't see the relevance of that.

05:25:32 **15** Sustained.

05:25:38 **16** MR. ABDRABBOH: I'll move on.

05:25:40 **17** BY MR. ABDRABBOH:

05:25:40 **18** **Q.** Did Wassim's father -- you testified that Wassim's

05:25:43 **19** father traveled abroad leaving the family in 1993?

05:25:55 **20** **A.** He left the first month of 1994.

05:25:59 **21** **Q.** Did you have contact with him after he left while you

-08:-44:-38 **22** lived in Lebanon?

05:26:13 **23** **A.** At that time and for a long period of time we did not

-08:-44:-38 **24** have any contact with him.

05:26:21 **25** **Q.** At some point in 1996 did anyone submit a visa petition

05:26:28 **1** on your behalf for you to come to the United States of America?

05:26:36 **2** **A.** Yes, my mother.

05:26:40 **3** **Q.** Do you know approximately when that application was

05:26:43 **4** submitted?

05:26:51 **5** **A.** April, I'm not sure.

05:26:59 **6** **Q.** When was your visa petition finally approved to come to

-08:-44:-38 **7** United States of America?

05:27:10 **8** **A.** Beginning of 2000.

05:27:12 **9** **Q.** So between the events of 1996 that you just described

-08:-44:-38 **10** and sometime in 2000 you were living in Lebanon; is that

05:27:53 **11** correct?

05:27:53 **12** **A.** Yes, during this four years between 1996 and 2000, we

-08:-44:-38 **13** were living in fear. We were living in hunger. Parties

05:28:04 **14** fighting each other. Fight started, fighting with Israel.

05:28:19 **15** MR. ABDRABBOH: I'm sorry. I'm going to stop the

-08:-44:-38 **16** witness again. Can you instruct her to please just answer the

05:28:27 **17** questions that I'm asking.

05:28:38 **18** BY MR. ABDRABBOH:

05:28:38 **19** **Q.** What, if any, political conflict was there in Lebanon

-08:-44:-38 **20** between 1996 and 2000?

05:28:59 **21** **A.** In 1996 we moved to my husband's town, but anyway we

-08:-44:-38 **22** were not living there permanently. We were back and forth from

-08:-44:-38 **23** his town to my parents' town. In 1997 or 1998, I don't know

-08:-44:-38 **24** what happened, if Syria get some news, so they attacked our

-08:-44:-38 **25** town. They randomly -- they ransack all the houses in illegal

05:29:55 **1** ways. They searched all the houses. At that time Wassim
-08:-44:-38 **2** was -- wasn't --
-08:-44:-38 **3** THE INTERPRETER: I'm going to try to find the
-08:-44:-38 **4** definition for this word.
05:30:14 **5** A. He was grown up in enough way.
05:30:18 **6** BY MR. ABDRABBOH:
05:30:18 **7** Q. I'm sorry, I missed that.
05:30:22 **8** THE INTERPRETER: He was grown up.
05:30:32 **9** BY MR. ABDRABBOH:
05:30:32 **10** Q. Mrs. Elkhechen, please, if you could please just answer
-08:-44:-38 **11** the question that I ask you.
-08:-44:-38 **12** The event you just described, did that happen in
05:30:49 **13** 1998?
05:30:52 **14** A. Yes.
-08:-44:-38 **15** Q. Did Wassim Mazloun live with you at that time?
05:30:59 **16** A. Yes.
05:31:00 **17** Q. Did you personally observe any of those events that you
05:31:05 **18** described regarding the Syrians coming into Lebanon?
05:31:15 **19** A. You mean to Lebanon or to the houses in Lebanon?
05:31:18 **20** Q. Let's start with her village.
05:31:24 **21** A. My village?
-08:-44:-38 **22** Q. Yes.
05:31:30 **23** A. Yeah, to the sides of our village, my village.
05:31:34 **24** Q. Do you know if Wassim Mazloun observed that?
05:31:41 **25** A. Yes.

05:31:45 **1** **Q.** What, if any, effect did you observe this have on Wassim

05:31:49 **2** Mazloun?

05:32:00 **3** **A.** When they came into our house and they searched it,

05:32:09 **4** Wassim was cussing them out when they were entering the house.

-08:-44:-38 **5** When he cussed them, they beat him up.

05:32:21 **6** **Q.** What effect, if any, did you observe that to have on

05:32:25 **7** Wassim Mazloun?

05:32:29 **8** MR. HERDMAN: I object, Your Honor. Same grounds

-08:-44:-38 **9** as before.

05:32:33 **10** THE COURT: I'll let the answer stand.

-08:-44:-38 **11** What effect did it have that she observed?

-08:-44:-38 **12** MR. ABDRABBOH: She can answer that.

05:32:50 **13** **A.** It affected him because he was in charge of us, he was

-08:-44:-38 **14** responsible for the family, so he was looking for a way to

05:32:58 **15** defend, to protect the family. I'm sorry.

-08:-44:-38 **16** MR. HERDMAN: Your Honor, I object.

05:33:02 **17** THE COURT: Again, she can testify as to what she

05:33:05 **18** saw, but in terms of what may have been on his mind she cannot

05:33:12 **19** testify to that. The objection to that part of that will be

05:33:19 **20** sustained.

05:33:20 **21** BY MR. ABDRABBOH:

05:33:20 **22** **Q.** One more question along this line, then we'll move on.

05:33:27 **23** What other conflicts, if any, were happening in Lebanon between

05:33:32 **24** '98 and 2000? Would you briefly describe those for the ladies

05:33:52 **25** and gentlemen of the jury?

05:33:52 **1** A. During this period of time there was a civil war between
-08:-44:-38 **2** the parties. There were a lot of parties at that time in
-08:-44:-38 **3** Lebanon. Each parties -- each person with a different
05:34:15 **4** political point of view is belonging to a different party.
-08:-44:-38 **5** This period of time was a fear period of time. People are
05:34:39 **6** scared. And young men are fighting each other. Young men
-08:-44:-38 **7** were all armed at that time, all the young men have bombs on
05:34:55 **8** their bodies, you can see them walking on the streets. And
-08:-44:-38 **9** most of the young men at that time, they were manufacturing
05:35:07 **10** things out of bottles, glass bottle. We are a country since 30
05:35:24 **11** years ago we were living in a war situation.

-08:-44:-38 **12** THE INTERPRETER: I missed something, Your Honor,
-08:-44:-38 **13** when she was talking about the young men. She said the young
-08:-44:-38 **14** men, the street, they were using the glass container and putting
-08:-44:-38 **15** gun powder inside it and manufacturing something out of it.

05:35:57 **16** BY MR. ABDRAABOH:

05:35:57 **17** Q. Between -- from 1993 to 2000, had you or your family, to
-08:-44:-38 **18** the best of your knowledge, heard from Wassim's father?

05:36:21 **19** A. Between what year and year?

05:36:23 **20** Q. 1993 and 2000 when they emigrated here.

05:36:31 **21** A. In 1999 we heard something. We knew something about him
05:36:39 **22** to be verbatim.

05:36:41 **23** Q. Did he come back into their life?

05:36:44 **24** MR. HERDMAN: Objection.

05:36:47 **25** THE WITNESS: No.

-08:-44:-38 **1** MR. HERDMAN: Objection.

05:36:49 **2** THE COURT: I'll let it stand. I would tend to

-08:-44:-38 **3** agree.

05:36:58 **4** Ladies and gentlemen, I don't believe that the

05:37:00 **5** issue of intrafamily relations is relevant. So disregard that

-08:-44:-38 **6** testimony.

05:37:11 **7** BY MR. ABDRABBOH:

05:37:11 **8** Q. From the time you were born in Lebanon up through 2000,

-08:-44:-38 **9** would it be fair to characterize Lebanon as a war torn country?

05:37:30 **10** A. Yes. Correct.

05:37:33 **11** Q. And did you observe many of these clashes?

-08:-44:-38 **12** MR. HERDMAN: Objection; asked and answered.

-08:-44:-38 **13** THE COURT: That's correct. Sustained.

05:37:46 **14** BY MR. ABDRABBOH:

05:37:46 **15** Q. Was it common -- you testified that it was common for

05:37:51 **16** people to be walking around with various military apparatus, if

-08:-44:-38 **17** you will; is that correct?

05:38:02 **18** THE INTERPRETER: Can you repeat the question,

05:38:04 **19** please?

-08:-44:-38 **20** BY MR. ABDRABBOH:

-08:-44:-38 **21** Q. I'd like to ask the witness: Is it correct that you

-08:-44:-38 **22** testified that many people -- it was common to see people

-08:-44:-38 **23** walking around with various military apparatus in Lebanon?

05:38:35 **24** A. All people of Lebanon armed with weapons. I would not

05:38:42 **25** be exaggerating; everybody. It was a war. Almost --

05:38:48 **1** Q. Was it common for people to have various weaponry in
-08:-44:-38 **2** their homes, to the best of your knowledge?

-08:-44:-38 **3** MR. HERDMAN: Objection, Your Honor.

05:38:55 **4** THE COURT: I'll let her answer, if she knows.

-08:-44:-38 **5** Let's find out. You might ask her the basis for what her

-08:-44:-38 **6** answer is.

-08:-44:-38 **7** BY MR. ABDRAABBOH:

-08:-44:-38 **8** Q. Do you know anybody who has weapons in their home in
05:39:07 **9** Lebanon?

05:39:10 **10** A. Anybody? Everybody. They have bombs.

05:39:18 **11** Q. When did you finally emigrate to the United States of
05:39:31 **12** America?

05:39:31 **13** A. April of 2000.

05:39:33 **14** Q. At that time what, if any, role did Wassim's father play
-08:-44:-38 **15** in your life?

05:39:40 **16** MR. HERDMAN: Objection. Same grounds as before.

-08:-44:-38 **17** THE COURT: I would agree. Sustained.

05:39:51 **18** BY MR. ABDRAABBOH:

05:39:51 **19** Q. Up through all the years that you resided in Lebanon

05:39:54 **20** with Wassim, through your departure to the United States, to the

-08:-44:-38 **21** best of your knowledge did Wassim Mazloun obtain any instruction

05:40:03 **22** on training or using or learning to use weaponry?

-08:-44:-38 **23** MR. HERDMAN: Objection.

05:40:11 **24** THE COURT: It's phrased in terms of her knowledge,

-08:-44:-38 **25** what she observed.

-08:-44:-38 **1** BY MR. ABDRABBOH:

05:40:19 **2**

05:40:19 **3** Q. Just to your knowledge, do you know if Wassim, while

-08:-44:-38 **4** living in Lebanon --

-08:-44:-38 **5** THE COURT: I think I'm going to have you rephrase:

05:40:29 **6** What did she observe. Her knowledge could be what she

05:40:35 **7** understood by hearsay.

-08:-44:-38 **8** BY MR. ABDRABBOH:

-08:-44:-38 **9** Q. Did you observe Wassim Mazloun undertaking any training,

-08:-44:-38 **10** military or training in self-defense, training classes while in

05:40:46 **11** Lebanon?

05:41:00 **12** THE WITNESS: No.

-08:-44:-38 **13** A. No.

05:41:02 **14** BY MR. ABDRABBOH:

05:41:02 **15** Q. Do you know the exact date you arrived in the United

05:41:15 **16** States?

05:41:15 **17** A. April 5, 2000.

05:41:19 **18** Q. And where did you settle?

05:41:24 **19** A. Toledo.

05:41:26 **20** Q. Was that the City of Toledo?

05:41:31 **21** A. Toledo, Ohio, yes.

05:41:36 **22** Q. And did you purchase a home?

05:41:41 **23** A. After four years.

-08:-44:-38 **24** Q. Who lived -- who resided with you?

05:41:47 **25** A. All of my children, the four.

05:41:52 **1** Q. Was your husband -- did you husband live with you?

-08:-44:-38 **2** A. No.

05:41:58 **3** Q. At that time in 2000 were you divorced?

05:42:06 **4** THE INTERPRETER: I'm sorry?

-08:-44:-38 **5** BY MR. ABDRAABBOH:

-08:-44:-38 **6** Q. At that time in 2000 were you divorced from your

05:42:10 **7** husband?

05:42:15 **8** A. Yes, I was divorced since 1993.

05:42:20 **9** Q. Who provided for your family financially when you came

05:42:24 **10** to the United States?

05:42:33 **11** A. Nobody. We worked.

-08:-44:-38 **12** Q. Where did you work?

05:42:39 **13** THE WITNESS: The Outback Steakhouse.

05:42:42 **14** A. Outback Steakhouse restaurant.

05:42:45 **15** BY MR. ABDRAABBOH:

05:42:45 **16** Q. Did anybody else in the family work?

05:42:48 **17** A. Wassim and Bilal.

05:42:51 **18** Q. How old was Wassim when he came to the United States?

05:42:59 **19** A. About 19 years.

-08:-44:-38 **20** Q. And where did Wassim work?

05:43:06 **21** A. Also at the Outback Steakhouse.

-08:-44:-38 **22** Q. How long did he work there?

05:43:16 **23** A. First time, four years. And he stopped and then he

-08:-44:-38 **24** went back and he worked for a couple months.

05:43:26 **25** Q. Did Wassim also go to school?

- 05:43:35 **1** A. In 2000 when we came.
- 05:43:37 **2** Q. What, if any, degree did Wassim obtain?
- 05:43:46 **3** A. He got a GED and he went into the college.
- 08:-44:-38 **4** Q. Do you know what college?
- 05:43:53 **5** A. U.T. Toledo.
- 05:43:58 **6** Q. Do you know what he majored in?
- 05:44:04 **7** THE WITNESS: Computer science and engineering.
- 05:44:07 **8** A. Computer science and engineering.
- 08:-44:-38 **9** BY MR. ABDRABBOH:
- 08:-44:-38 **10** Q. Do you know how far along he went with his studies?
- 05:44:18 **11** A. Before 2006, before this incident, he was going to take
- 08:-44:-38 **12** some classes in the summertime then he would be graduated.
- 05:44:41 **13** Q. Do you have any other family that lives in the United
- 05:44:49 **14** States?
- 05:44:49 **15** A. Almost all of my family are in the United States. All
- 08:-44:-38 **16** of my family members are in the United States. My brothers,
- 08:-44:-38 **17** five brothers and three sisters.
- 05:45:04 **18** Q. And just for clarity, where do you live now? .
- 08:-44:-38 **19** THE WITNESS: 5526 Grey Drive, Sylvania, Ohio.
- 05:45:17 **20** A. 5526 Grey --
- 05:45:21 **21** THE WITNESS: Grey, G-R-E-Y.
- 05:45:24 **22** A. Grey Drive.
- 05:45:26 **23** THE WITNESS: Sylvania, Ohio.
- 08:-44:-38 **24** A. Sylvania, Ohio.
- 05:45:29 **25** BY MR. ABDRABBOH:

05:45:29 **1** Q. And who lives with you?

05:45:32 **2** A. All of my children, all of the four.

-08:-44:-38 **3** Q. Since you've come to America has Wassim always lived in

-08:-44:-38 **4** the same household as you?

05:45:45 **5** A. Yes.

05:45:49 **6** Q. Is Wassim Mazloun married?

05:45:53 **7** A. No.

-08:-44:-38 **8** Q. Have you ever discussed with him getting married?

05:46:03 **9** A. We had a plan in 2000 that he has to go in 2005 to get

-08:-44:-38 **10** married.

05:46:14 **11** Q. I'm sorry, go where?

-08:-44:-38 **12** A. Lebanon.

05:46:17 **13** Q. Was that trip intended to be a trip to search for a wife

-08:-44:-38 **14** for Wassim Mazloun?

05:46:23 **15** MR. HERDMAN: Objection.

05:46:26 **16** THE COURT: Again, I'm going to sustain. Rephrase

-08:-44:-38 **17** the question.

05:46:34 **18** BY MR. ABDRAABOH:

05:46:34 **19** Q. Did there come a time where you undertook efforts about

05:46:38 **20** seeing -- trying to help Wassim get married?

05:46:50 **21** A. In 2004 I went to Lebanon with my daughters. Two of

05:46:57 **22** them. At that time I seen a girl and I really liked her. I

-08:-44:-38 **23** spoke to her mother and we had an agreement to come back in

05:47:16 **24** 2005. He will see her. They will talk to each other, and if

-08:-44:-38 **25** they get along together, we will bring her here.

05:47:29 **1** Q. Are you describing an arranged marriage?

05:47:43 **2** A. I seen her. I liked her, but he's going to come back

-08:-44:-38 **3** and see her. Yes, it is pre-arranged.

05:47:51 **4** Q. Is that unusual for people of your background?

05:47:56 **5** MR. HERDMAN: Objection.

-08:-44:-38 **6** THE COURT: Overruled. She may answer.

05:48:03 **7** A. What is, the marriage?

05:48:12 **8** BY MR. ABDRAABOH:

05:48:12 **9** Q. Yes. The process, is that unusual, the process of an

05:48:18 **10** arranged marriage unusual for people of her background?

05:48:31 **11** A. No, it is usual.

05:48:34 **12** Q. You testified that you planned a trip to go to Lebanon

-08:-44:-38 **13** in 2004; is that correct?

05:48:48 **14** A. I went to Lebanon in 2004.

-08:-44:-38 **15** Q. What was the purpose of that trip?

05:48:54 **16** A. 2004?

-08:-44:-38 **17** Q. Yes.

-08:-44:-38 **18** A. Okay, in 2004 I went there because it's been, first of

05:49:19 **19** all, four years we did not go to Lebanon. Second of all, in

05:49:23 **20** 2000 we were notified that Wassim supposed to go for mandatory

-08:-44:-38 **21** military services. So at that time, before we came here, I

-08:-44:-38 **22** went there and I delayed this because at that time he was still

-08:-44:-38 **23** in school and I arranged for a military book for him and I

05:49:52 **24** delayed his services. In 2004 I went again and I delayed the

-08:-44:-38 **25** military services again.

05:50:08 **1** THE INTERPRETER: Can I switch interpreter, Your

-08:-44:-38 **2** Honor?

-08:-44:-38 **3** THE COURT: Yes, you may.

05:50:30 **4** BY MR. ABDRAABOH:

05:50:30 **5** **Q.** In 2004 when you went to Lebanon, was there, to the best

-08:-44:-38 **6** of your knowledge, a requirement for mandatory military service

05:50:40 **7** in Lebanon?

05:50:47 **8** MR. HERDMAN: Objection. I think we've covered

-08:-44:-38 **9** this.

05:50:51 **10** **A.** Yes.

05:50:53 **11** BY MR. ABDRAABOH:

05:50:53 **12** **Q.** How do you know in 2004 that Wassim was subject to that

-08:-44:-38 **13** mandatory military service requirement?

05:51:06 **14** **A.** Because the military has informed us in 2000 of that

-08:-44:-38 **15** fact.

05:51:17 **16** **Q.** How was he notified?

05:51:28 **17** **A.** The military sent somebody with the papers to -- they

-08:-44:-38 **18** sent somebody to inform us that he was supposed to be serving in

-08:-44:-38 **19** the military when he reaches 18.

05:51:41 **20** **Q.** To the best of her knowledge, what are the different

05:51:45 **21** options that one may undertake when they receive such notice?

05:52:07 **22** **A.** As long as he's attending school, he can ask for a

05:52:11 **23** deferment.

05:52:12 **24** **Q.** In 2004 when you went to Lebanon, did you submit a

05:52:17 **25** deferral on behalf of Wassim Mazloum?

05:52:23 **1** A. In 2004, I did.

-08:-44:-38 **2** Q. Approximately when?

05:52:34 **3** A. I think it was during the summer months.

05:52:38 **4** Q. Why did you choose that deferral option?

05:52:42 **5** MR. HERDMAN: Objection.

05:52:44 **6** THE COURT: Sustained.

05:52:51 **7** MR. ABDRABBOH: Judge, can we approach?

05:52:52 **8** (Whereupon the following discussion was had at the

05:54:59 **9** bench outside the hearing of the jury:)

05:54:59 **10** THE COURT: That's what's on her mind.

-08:-44:-38 **11** MR. ABDRABBOH: She testified that she's the one

-08:-44:-38 **12** that deferred him. So I'm just asking her why she did that.

-08:-44:-38 **13** THE COURT: What's the answer?

-08:-44:-38 **14** MR. ABDRABBOH: The answer is because he intended

-08:-44:-38 **15** -- she did it on his behalf. He intended on coming back the

-08:-44:-38 **16** following year.

-08:-44:-38 **17** THE COURT: How can she testify as to what he

-08:-44:-38 **18** intended.

-08:-44:-38 **19** MR. ABDRABBOH: Not for the truth. I guess she'd

-08:-44:-38 **20** have first-hand knowledge.

-08:-44:-38 **21** THE COURT: Is that what he told her? What's the

-08:-44:-38 **22** basis or the foundation? It's pretty loose, but I don't want

-08:-44:-38 **23** to -- did they have a conversation? I haven't heard anything

-08:-44:-38 **24** about a conversation or they discussed any plans or he was

-08:-44:-38 **25** authorized by her to take these steps, she did it on her own.

-08:-44:-38 **1** MR. ABDRABBOH: I'll expand on that.

-08:-44:-38 **2** THE COURT: How did you come to be doing these

-08:-44:-38 **3** things for your son? Was it her own initiative, was she

-08:-44:-38 **4** instructed by him? I do think a statement by him -- actually,

-08:-44:-38 **5** a statement by him of an intent to return, let's get statement

-08:-44:-38 **6** rather than this kind of -- okay.

-08:-44:-38 **7** (End of side-bar .)

05:55:08 **8** THE COURT: Ladies and gentlemen, I think we'll

-08:-44:-38 **9** take our mid-afternoon break, about 15 minutes.

05:55:18 **10** (Recess taken.)

05:58:13 **11** THE COURT: If you want to lead a little bit,

-08:-44:-38 **12** that's fine. Say: Did you have a conversation with him about

-08:-44:-38 **13** military service? When did that take place? She likes to

-08:-44:-38 **14** talk. Not necessarily in response.

-08:-44:-38 **15** MR. ABDRABBOH: It's very difficult.

-08:-44:-38 **16** THE COURT: I understand the entire situation.

-08:-44:-38 **17** That's why I'm saying, subject to their...

-08:-44:-38 **18** MR. ABDRABBOH: We can move it along very much more

-08:-44:-38 **19** quickly if you'll allow me to lead her.

-08:-44:-38 **20** MR. HERDMAN: I won't object once if I like the

-08:-44:-38 **21** answer.

-08:-44:-38 **22** THE COURT: Once the answer's out there...

-08:-44:-38 **23** MR. SOFER: The government objects to hearsay

-08:-44:-38 **24** nature of this. I don't think it falls under 803(3). It's

-08:-44:-38 **25** well beyond trying to lay a factual statement. We think it

-08:-44:-38 **1** essentially allows the defendant to testify, while he wasn't
-08:-44:-38 **2** trying to seek jihad training, he was trying to go home and
-08:-44:-38 **3** defend his country and/or himself; without ever having to put
-08:-44:-38 **4** his statements to the test.

-08:-44:-38 **5** THE COURT: I understand, but I think my last
-08:-44:-38 **6** exercise of 803(3) -- I think this is pertinent state of mind
-08:-44:-38 **7** testimony. I think it has to be framed and delimited more.
-08:-44:-38 **8** So I'm saying lead a bit. Kind of do it that way. If it's too
-08:-44:-38 **9** much, they'll object. And if there are other grounds to
-08:-44:-38 **10** object, I suspect we'll hear from them.

-08:-44:-38 **11** (End of side-bar discussion.)

06:16:24 **12** THE COURT: Will the interpreter remind Mrs.
06:16:28 **13** Elkhechen that she remains under oath.

06:16:34 **14** THE WITNESS: Yes.

06:16:34 **15** BY MR. ABDRABBOH:

06:16:37 **16** Q. Before we stopped for our break, we were talking about
06:16:43 **17** the year 2004 trip to Lebanon. Do you remember that?

06:16:55 **18** A. Yes.

-08:-44:-38 **19** Q. Just a couple more questions. I'd like to focus there
06:17:01 **20** for just a minute on 2004. Prior to that trip did Wassim
-08:-44:-38 **21** express to you his intent regarding his military service in
-08:-44:-38 **22** Lebanon?

06:17:25 **23** A. Yes.

06:17:26 **24** Q. Was his intent to defer that military obligation for one
-08:-44:-38 **25** year?

- 06:17:38 **1** A. Yes.
- 08:-44:-38 **2** Q. Did you do that on his behalf?
- 06:17:43 **3** A. Yes.
- 06:17:45 **4** Q. When did you come back from that trip in 2004?
- 06:17:51 **5** A. August 29.
- 06:17:54 **6** Q. Of 2004?
- 06:17:55 **7** A. 2004.
- 06:17:58 **8** Q. Were you successful in finding a bride for Wassim?
- 06:18:09 **9** A. Yes, I was successful in finding somebody. And I spoke
- 08:-44:-38 **10** with her family to that regard.
- 06:18:18 **11** Q. Was the marriage consummated?
- 06:18:24 **12** A. No. The point was that we would -- he would go back
- 08:-44:-38 **13** there and meet her and get to know her better. And then if
- 06:18:43 **14** everything works all right, then in 2005 they would get married.
- 08:-44:-38 **15** Q. So the plan was for Wassim to go to Lebanon in 2005?
- 06:18:56 **16** A. Yeah. That was our intent, the whole family, including
- 08:-44:-38 **17** Wassim.
- 06:19:02 **18** Q. So did you plan a family trip to go to Lebanon in 2005?
- 06:19:13 **19** A. Yeah, we were planning, but there were a few things that
- 08:-44:-38 **20** happened that made us change the plan.
- 08:-44:-38 **21** Q. And what was it that happened?
- 06:19:28 **22** A. First of all, in 2005 Wassim had just started or
- 08:-44:-38 **23** initiated the start of a business. And he had just -- at that
- 08:-44:-38 **24** time he had only just about one semester to finish his school.
- 08:-44:-38 **25** And we thought it would be a better idea to just wait. So we

06:20:07 **1** postponed the trip for him, you know, to finish his school first
06:20:11 **2** and then so -- and then he can establish or start to establish
-08:-44:-38 **3** his business and that would be better for everyone.

06:20:19 **4** Q. Mrs. Elkhechen, have you heard of Darren Griffin?
06:20:32 **5** A. Yes, I have heard of him.

-08:-44:-38 **6** Q. In what context?
06:20:45 **7** A. I was using Wassim's phone, and to call my other son,
-08:-44:-38 **8** whose name happened to be Bilal. So I went to the menu on the
06:20:59 **9** phone where the menu is. And so there was two name, there was
-08:-44:-38 **10** Bilal and then there was Bilal, the American. It kind of
06:21:17 **11** caught my attention, the name, the name Bilal, the American, or
06:21:23 **12** Bilal Enreke (phonetically), which means Bilal, the American.
06:21:27 **13** So I asked Wassim about the name.

06:21:31 **14** MR. HERDMAN: Your Honor, I'm anticipating a
-08:-44:-38 **15** hearsay objection at this point.

06:21:36 **16** THE COURT: The question is whether she heard the
-08:-44:-38 **17** name. I think she testified that he said it. That's okay.

06:21:44 **18** MR. ABDRABBOH: Your Honor, may I have just one
-08:-44:-38 **19** moment?

-08:-44:-38 **20** THE COURT: Sure.
06:21:48 **21** (Discussion had off the record.)

06:22:11 **22** MR. ABDRABBOH: No further questions, Your Honor.

-08:-44:-38 **23** THE COURT: Mr. Herdman?
06:22:19 **24** - - -
06:22:19 **25** SALWA ELKHECHEN, CROSS-EXAMINATION

-08:-44:-38 **1** BY MR. HERDMAN:

-08:-44:-38 **2** **Q.** Ms. Elkhechen, my name is Justin Herdman. I'm an

-08:-44:-38 **3** Assistant United States Attorney. I'm going to ask you a couple

06:22:34 **4** questions now, okay?

06:22:36 **5** **A.** I'm here to answer.

06:22:40 **6** MR. HERDMAN: First, Your Honor, I'd ask to use the

06:22:43 **7** projector here.

06:22:44 **8** THE COURT: You may.

06:23:10 **9** BY MR. HERDMAN:

06:23:10 **10** **Q.** Ms. Elkhechen, do you recognize what's on the screen

-08:-44:-38 **11** there?

06:23:17 **12** **A.** This is a map of Lebanon.

06:23:20 **13** **Q.** I think you can actually touch the screen. Could you

-08:-44:-38 **14** just indicate on this map where the village was that you were

06:23:27 **15** born in?

-08:-44:-38 **16** **A.** She's indicating. The name of her village is actually

06:24:14 **17** not on the map, but it is actually located almost between the

-08:-44:-38 **18** Western Beqaa and the Chouf, C-h-o-u-f.

06:24:25 **19** **Q.** If she touches the screen --

06:24:30 **20** **A.** You can see it.

06:24:31 **21** THE INTERPRETER: You can see it when she touches

-08:-44:-38 **22** the screen.

06:25:14 **23** She said it's really more towards the Western

06:25:19 **24** Beqaa.

06:25:20 **25** BY MR. HERDMAN:

06:25:20 **1** Q. Here, where the green mark is here?

-08:-44:-38 **2** A. Just about right.

-08:-44:-38 **3** Q. That's the area that you were born in and you grew up in

06:25:33 **4** until you were 19?

06:25:35 **5** A. Yes.

06:25:36 **6** Q. And Beirut is here. I'm circling Beirut. You said

-08:-44:-38 **7** that was the capital, right?

-08:-44:-38 **8** A. Yes.

06:25:43 **9** Q. And can you give me a general idea -- I guess we'll

06:25:48 **10** touch the screen. Where was your husband's village that you

06:25:51 **11** moved to?

06:26:01 **12** THE INTERPRETER: Can you see it? She just did

-08:-44:-38 **13** point.

06:26:13 **14** BY MR. HERDMAN:

06:26:13 **15** Q. If she can tell us just looking at the map where it

-08:-44:-38 **16** would be.

-08:-44:-38 **17** A. Just a little to the north of Western Beqaa.

06:26:26 **18** Q. In the Zahle?

-08:-44:-38 **19** A. Towards the eastern, more like towards the east.

-08:-44:-38 **20** Q. I'm going to take a shot at this. Maybe generally here?

-08:-44:-38 **21** Would that be right?

06:26:45 **22** A. Almost. Just about.

-08:-44:-38 **23** Q. So sort of the eastern part of the Western Beqaa area.

06:26:56 **24** Ms. Elkhechen, when you moved to your husband's

-08:-44:-38 **25** village, you said that was in 1980, correct?

06:27:10 **1** A. 1980, yes.

-08:-44:-38 **2** Q. Was it in 1981 that the Israelis invaded Lebanon, or was

-08:-44:-38 **3** that 1982?

06:27:21 **4** A. It was in 1982.

-08:-44:-38 **5** Q. And you said they came within one kilometer of your

06:27:28 **6** husband's village, correct?

06:27:40 **7** A. About two kilometers.

06:27:43 **8** Q. Would I be correct in saying the Israelis actually --

-08:-44:-38 **9** they actually occupied the village that you grew up in?

06:27:55 **10** A. No, they didn't occupy it.

-08:-44:-38 **11** Q. When you said they came within two kilometers of your

-08:-44:-38 **12** village, then they must have stayed to the east of where you

06:28:08 **13** grew up?

06:28:17 **14** THE INTERPRETER: Did you say her husband's

06:28:19 **15** village?

-08:-44:-38 **16** BY MR. HERDMAN:

-08:-44:-38 **17** Q. They must have gone to east of where she grew up in

-08:-44:-38 **18** Western Beqaa?

06:28:30 **19** A. They were more towards the south of where I grew up and

06:28:33 **20** where my village is.

-08:-44:-38 **21** Q. What about in 1982, did that change at all? Did the

06:28:38 **22** Israelis move further north?

06:28:48 **23** A. They made it all the way to Beqaa, Jipjana

06:29:00 **24** (phonetically), that's Western Beqaa.

-08:-44:-38 **25** Q. In 1982 were the Israelis --

06:29:05 **1** THE WITNESS: 1982, yes.

06:29:05 **2** BY MR. HERDMAN:

-08:-44:-38 **3** Q. They occupied the village you grew up in in 1982?

-08:-44:-38 **4** THE WITNESS: No.

-08:-44:-38 **5** A. No, they did not.

-08:-44:-38 **6** BY MR. HERDMAN:

-08:-44:-38 **7** Q. Now, at some point in time during that 1981-1982 period

-08:-44:-38 **8** you said that your family went to Beirut, correct?

06:29:26 **9** A. Yes.

-08:-44:-38 **10** Q. And so the Israeli Army was in the southern part of

-08:-44:-38 **11** Lebanon at that time?

06:29:35 **12** A. Yes.

06:29:37 **13** Q. And actually in Beirut, are you aware of the fact that

-08:-44:-38 **14** there were United States Marines that were sent into Beirut to

06:29:44 **15** stay in the embassy there and support the embassy there?

06:29:56 **16** A. Yes, 1983, yes.

06:29:59 **17** Q. Now, prior to 1983, you said that you were frightened

06:30:05 **18** often because the Israelis would attack or there was a fear the

06:30:09 **19** Israelis would attack?

06:30:29 **20** A. We were not really afraid. We were really caught in

-08:-44:-38 **21** pretty much the crossfire because on one side the Israeli, on

-08:-44:-38 **22** the other side were the Syrians. We were caught in the middle.

-08:-44:-38 **23** Q. Is it safe to say you wouldn't have been caught in a

06:30:43 **24** crossfire if the Israelis wouldn't -- is it safe to say you and

-08:-44:-38 **25** your family wouldn't have been caught in the crossfire if the

06:30:52 **1** Israelis wouldn't have come into Lebanon?

06:31:04 **2** **A.** Yes. That's reasonable. Yes. That's fair to say,

-08:-44:-38 **3** in other words.

-08:-44:-38 **4** **Q.** Is it also safe to say that had the Israelis not come

-08:-44:-38 **5** into Lebanon, you would not have had to take your family and go

-08:-44:-38 **6** to Beirut?

06:31:22 **7** **A.** Yeah. We left because the only area that there were

06:31:33 **8** shelters is Beirut. And that's the reason. That's the main

06:31:36 **9** reason we went to Beirut, for shelter.

-08:-44:-38 **10** **Q.** The reason you needed shelter was because, again, you

-08:-44:-38 **11** were caught in the crossfire between Israelis and other

06:31:45 **12** individuals in Lebanon?

06:31:50 **13** **A.** Yes, exactly.

-08:-44:-38 **14** **Q.** It is fair to say you weren't just frightened at this

-08:-44:-38 **15** point in time, you were also angry at the Israelis, right?

06:32:11 **16** **A.** Yeah, we were basically consumed in fear because we were

-08:-44:-38 **17** actually caught between both of them. They were both fighting.

06:32:21 **18** **Q.** In this period of time, the early 1980s, would you agree

-08:-44:-38 **19** with me that much of Lebanon associated the United States of

-08:-44:-38 **20** America with the Israelis?

06:32:47 **21** **A.** Yes.

-08:-44:-38 **22** **Q.** And the perception, at least in Lebanon, was that the

-08:-44:-38 **23** United States supported the Israelis, militarily?

06:32:55 **24** **A.** Yes.

-08:-44:-38 **25** **Q.** And those people who were angry at Israel for invading

06:33:05 **1** Lebanon were also angry at the United States?

06:33:24 **2** **A.** I am in no place to answer this question because all I

-08:-44:-38 **3** know is I was in fear for myself and my family. That's why I

-08:-44:-38 **4** took my family and myself to Beirut.

06:33:35 **5** **Q.** Ms. Elkhechen, you're aware of the fact in 1983 there

-08:-44:-38 **6** was a bombing at the U.S. Marine barracks in Beirut?

06:33:52 **7** **A.** Yes.

-08:-44:-38 **8** **Q.** There were several hundred Marines that were killed in

-08:-44:-38 **9** that attack?

06:33:58 **10** **A.** Yes.

06:33:59 **11** **Q.** And that attack occurred after the Israelis invaded

06:34:03 **12** Lebanon in 1981-1982?

06:34:11 **13** **A.** Yes, I know that.

-08:-44:-38 **14** **Q.** I'd like to fast forward a little bit to -- I guess it

-08:-44:-38 **15** was 1996 I believe. I believe your testimony was in 1996 you

-08:-44:-38 **16** actually returned back to your home town, the village you grew

-08:-44:-38 **17** up in?

06:34:36 **18** **A.** Yes, in the summer, yes, I did come back.

06:34:40 **19** **Q.** And while you were in your home town, that village you

06:34:43 **20** grew up in, there was an attack by the Israelis on that village?

06:34:55 **21** **A.** There was shelling and air strike.

06:35:00 **22** **Q.** You said also during that time period there were

06:35:04 **23** airplanes flying around?

06:35:06 **24** THE INTERPRETER: Yes, that's what --

06:35:08 **25** BY MR. HERDMAN:

06:35:08 **1** Q. My question was your testimony was at the same time or,
06:35:12 **2** 1996 or thereabout, there were planes flying overhead that you
-08:-44:-38 **3** could see?

06:35:27 **4** A. What was happening, there was like really a very -- if
-08:-44:-38 **5** you would call it warfare, psychological warfare. If they
-08:-44:-38 **6** don't bomb us or air strikes, they would fly and flip their
06:35:40 **7** airplane as a show of force to intimidate and frighten the
-08:-44:-38 **8** people. They would fly at a very low altitude.

-08:-44:-38 **9** Q. So you could actually see the shape of the plane; you
-08:-44:-38 **10** could see what it looked like, right?

06:35:57 **11** A. Of course. Yeah.

-08:-44:-38 **12** Q. Could you see that there was a little insignia on the
06:36:02 **13** tail of those planes, or on the wings of those planes?

06:36:09 **14** A. Yes, it was very low. Yes, of course, you could see
-08:-44:-38 **15** it.

-08:-44:-38 **16** Q. You could tell that those were Israeli fighter planes or
06:36:18 **17** war planes?

06:36:19 **18** A. Yes. F-16.

-08:-44:-38 **19** Q. You're aware an F-16 is a fighter plane that's
06:36:27 **20** manufactured by the United States?

06:36:32 **21** A. Yes.

-08:-44:-38 **22** Q. In fact, everyone in the village or the region knew that
-08:-44:-38 **23** these fighter planes that the Israelis were flying overhead had
-08:-44:-38 **24** come from the United States?

06:36:50 **25** A. Not just our village, but all the Lebanese know that

-08:-44:-38 **1** fact.

-08:-44:-38 **2** **Q.** Everybody knew that fact, that the United States was

06:36:59 **3** supplying the Israelis, at least the Israeli military with these

-08:-44:-38 **4** fighter planes or military equipment?

06:37:06 **5** MR. HARTMAN: Judge, I'm going to object to what

06:37:08 **6** everybody knew.

-08:-44:-38 **7** THE COURT: I would agree.

06:37:10 **8** MR. HERDMAN: I'll withdraw the question.

06:37:17 **9** BY MR. HERDMAN:

06:37:17 **10** **Q.** By 1996 Wassim Mazloun was 15 years old, correct?

06:37:24 **11** **A.** About 14, yeah, about 15.

-08:-44:-38 **12** **Q.** You said this was the summer of '96?

06:37:32 **13** **A.** Yeah.

-08:-44:-38 **14** **Q.** He was born May of 1981?

06:37:38 **15** **A.** It's about 14 years, almost 15.

06:37:43 **16** **Q.** Now, I think you testified that in -- I believe it was

-08:-44:-38 **17** 1991 you said that the town that you were living in, I guess

-08:-44:-38 **18** this was your husband's town that you lived in at that time?

06:38:09 **19** **A.** 1991?

06:38:10 **20** **Q.** 1991, yes.

06:38:19 **21** **A.** Okay, the way it was, like, only in the summer I would

-08:-44:-38 **22** go back to my village. The rest of the year, because the kids

-08:-44:-38 **23** are in school, I'm in my husband's village. And also like

06:38:37 **24** whenever there's like school is off or like weekend or

-08:-44:-38 **25** something, we would go back to my village and spend the time

-08:-44:-38 **1** there.

06:38:44 **2** **Q.** So I guess your testimony on direct examination was that

06:38:47 **3** in 1991 there was a party that's very popular in my village.

-08:-44:-38 **4** My question is: Which village was that, your husband's village

-08:-44:-38 **5** or the village you grew up in?

06:39:10 **6** THE INTERPRETER: She needs more information about

06:39:15 **7** the party you're talking about.

-08:-44:-38 **8** BY MR. HERDMAN:

-08:-44:-38 **9** **Q.** It was her testimony. Let me be a little more

06:39:21 **10** specific. In the village that you lived with your husband, your

-08:-44:-38 **11** husband's village, I think your testimony was something along

-08:-44:-38 **12** the lines of the town was split, you were living in fear at that

-08:-44:-38 **13** point in time?

-08:-44:-38 **14** THE INTERPRETER: She said that was during the

06:39:51 **15** summer, and that would have been her village, not her husband's

06:39:54 **16** village.

-08:-44:-38 **17** BY MR. HERDMAN:

-08:-44:-38 **18** **Q.** So when you were talking about the village that was

06:39:57 **19** split and there being a party that supported the Palestinians in

-08:-44:-38 **20** that village that was very popular with the villagers, that was

-08:-44:-38 **21** your home town you were referring to?

06:40:17 **22** **A.** There were actually against the Palestinians. You're

-08:-44:-38 **23** still talking about 1991?

06:40:27 **24** **Q.** Correct.

-08:-44:-38 **25** THE INTERPRETER: That was in her village. She

06:40:36 **1** would ask if you would ask the question again, please.

-08:-44:-38 **2** MR. HERDMAN: I'm going to move on actually. I'm a

-08:-44:-38 **3** little confused. Not a problem.

06:40:50 **4** BY MR. HERDMAN:

06:40:50 **5** **Q.** Let's fast forward now to the year 2000. In April 2000

-08:-44:-38 **6** you came over to the United States with Wassim Mazloun, Bilal

06:41:04 **7** Mazloun, Dima Mazloun, and Diana Mazloun?

06:41:20 **8** **A.** Yes.

-08:-44:-38 **9** **Q.** When you got over here did you start working at the

-08:-44:-38 **10** Outback right away or was it later on?

06:41:31 **11** **A.** When we first arrived we stayed with my dad. My dad

-08:-44:-38 **12** was living here at the time. Ten days after we got here Wassim

-08:-44:-38 **13** started working for Outback Steakhouse. On April 29 the same

06:41:54 **14** year I started working for Outback Steakhouse.

06:41:58 **15** **Q.** You testified about an official from, I guess it was the

06:42:03 **16** Lebanese Army, approached Wassim or the family in 2000 and

06:42:19 **17** informed the family that Wassim's military service was coming

-08:-44:-38 **18** due?

06:42:33 **19** **A.** Yeah. They informed us once he reaches the age of 18

06:42:38 **20** years old, he needs to start serving in the military.

-08:-44:-38 **21** **Q.** So when Wassim turned 18 you guys were living in

-08:-44:-38 **22** Lebanon, right?

06:42:49 **23** **A.** Yes.

-08:-44:-38 **24** **Q.** That would have been May of '99?

06:42:54 **25** **A.** Yes.

06:42:55 **1** **Q.** And he didn't go into military service at that point in

06:43:00 **2** time?

06:43:02 **3** **A.** He did not because he was in school.

-08:-44:-38 **4** **Q.** So he got a deferment at that point?

06:43:16 **5** **A.** They informed us that towards -- almost toward the end

06:43:20 **6** of '99 and by 2000 he had already got a deferment.

-08:-44:-38 **7** **Q.** My question is this: You were never approached in the

-08:-44:-38 **8** United States by some Lebanese official telling you that your

-08:-44:-38 **9** son had to report to Lebanon?

06:43:43 **10** **A.** Not an official Lebanese, not in America.

-08:-44:-38 **11** **Q.** You never got any letters or anything that were sent to

06:43:49 **12** you from Lebanon?

06:44:00 **13** **A.** Well, the way it worked is I already had -- went to the

-08:-44:-38 **14** military headquarters and she got what would be called like a --

06:44:11 **15** it's just a book of sorts. It's pretty much like United -- it

-08:-44:-38 **16** has your age and when you were supposed to go in the Army. And

06:44:22 **17** that is something that you have to show at the airport if you're

06:44:26 **18** traveling. And they would record the information in it. They

-08:-44:-38 **19** give us permission to leave the country based on the reason that

-08:-44:-38 **20** he was still attending school. So he got a deferment because

-08:-44:-38 **21** he was still in school. And he was also granted a permission

06:44:51 **22** to leave the country.

-08:-44:-38 **23** **Q.** But once you had that book -- by the way, do you have

06:44:56 **24** the book? Do you still have it?

06:45:01 **25** **A.** We left it in Lebanon because in 2002 his uncle had to

-08:-44:-38 **1** ask for another deferment for him.

-08:-44:-38 **2** **Q.** So when you went back in 2004, the book was in Lebanon,

-08:-44:-38 **3** and you took it back to the officials?

06:45:18 **4** **A.** Yes. When I went to Lebanon in 2004 the book was still

-08:-44:-38 **5** in Lebanon and I got a deferment granted for him at that time as

-08:-44:-38 **6** well.

-08:-44:-38 **7** **Q.** You didn't receive any other documentation or

06:45:30 **8** certificate or anything when you went back in 2004?

06:45:35 **9** THE INTERPRETER: What kind? She'll ask me.

-08:-44:-38 **10** MR. HERDMAN: I don't know. Any kind of document.

-08:-44:-38 **11** Any receipt from the Lebanese government.

06:45:53 **12** **A.** As long as you have a deferment and you ask for it and

06:45:57 **13** it's granted there is no need for any other -- that's all you

06:46:01 **14** need. We are within the law, once you have a deferment then

06:46:05 **15** you're all right.

06:46:06 **16** BY MR. HERDMAN:

06:46:06 **17** **Q.** But you never received any kind of notice while you were

-08:-44:-38 **18** in the United States from Lebanon that Mr. Mazloun's deferment

-08:-44:-38 **19** was going to expire or run out?

06:46:30 **20** **A.** No, not in this country.

06:46:34 **21** THE WITNESS: No.

-08:-44:-38 **22** BY MR. HERDMAN:

-08:-44:-38 **23** **Q.** You weren't worried the Lebanese government was going to

-08:-44:-38 **24** come to Toledo to take Mr. Mazloun back to Lebanon, right?

06:46:47 **25** **A.** Yeah. There is no fear. I once fearful because I was

06:46:55 **1** already within the law. I already had the deferment. Why
-08:-44:-38 **2** would I be worried about it?

06:47:00 **3** **Q.** I think you said there were two reasons why you did not
-08:-44:-38 **4** go with Mr. Mazloun back to Lebanon in the summer of 2005. One
-08:-44:-38 **5** of them was that Mr. Mazloun had started a business; is that
-08:-44:-38 **6** correct? The second was that he was still a student; is that
06:47:28 **7** right?

06:47:28 **8** **A.** Yes. Because he was almost graduated. Yes.

-08:-44:-38 **9** **Q.** But I think you also testified he was going to graduate
-08:-44:-38 **10** in the summer of 2006. Isn't that right?

06:47:45 **11** **A.** No. He was supposed to take summer school that year
-08:-44:-38 **12** then finish in 2005.

-08:-44:-38 **13** **Q.** But he didn't graduate from college in 2005, correct?

06:47:56 **14** **A.** No.

-08:-44:-38 **15** **Q.** And I thought your testimony was that he would have been
06:48:00 **16** graduated sometime in 2006 if he went to summer school?

06:48:23 **17** **A.** He only had only ten hours to finish and he was planning
06:48:28 **18** on taking summer school which would expedite his graduation.

-08:-44:-38 **19** It would have been the summer. And also to, you know,
-08:-44:-38 **20** establish his business in which, you know, that was the other
06:48:39 **21** reason he wanted to accomplish that goal first.

-08:-44:-38 **22** **Q.** So Mr. Mazloun is a student in 2004, and he was eligible
-08:-44:-38 **23** for a deferment from military service in 2004, correct?

06:49:13 **24** **A.** We got him the deferment in 2004 which is valid until
06:49:19 **25** 2006.

-08:-44:-38 **1** Q. He was still -- at the beginning of 2006 he was still a
06:49:23 **2** student at that time, is that true?

06:49:26 **3** A. Yes, because he never went to take any summer classes.
06:49:34 **4** For financial reasons he couldn't take classes in the summer.

-08:-44:-38 **5** Q. So your testimony was the reason you didn't go to
06:49:41 **6** Lebanon in 2005 was because of Mr. Mazloun's business and his
06:49:44 **7** school; is that correct?

06:49:46 **8** THE WITNESS: Yes.

06:49:54 **9** A. Yes.

06:49:56 **10** BY MR. HERDMAN:

06:49:56 **11** Q. You testified earlier that you received your citizenship
06:50:02 **12** in 2005?

06:50:06 **13** A. 2006.

06:50:09 **14** THE WITNESS: 2005.

06:50:16 **15** BY MR. HERDMAN:

06:50:16 **16** Q. Do you remember when you applied for your citizenship?

-08:-44:-38 **17** A. January 10, 2005.

06:50:21 **18** Q. And around that same time did Wassim Mazloun apply for
06:50:26 **19** citizenship?

06:50:31 **20** A. On the same day we all applied, all of us.

-08:-44:-38 **21** Q. And you received some sort of notice that you would be
06:50:40 **22** adjudicated for citizenship, an interview of sorts in June or

-08:-44:-38 **23** July of 2005; is that right?

06:50:54 **24** A. It was in September.

-08:-44:-38 **25** Q. When you were actually granted your citizenship it was

-08:-44:-38 **1** September?

06:51:00 **2** A. Yes.

-08:-44:-38 **3** Q. Okay. And prior to that you had an interview, correct?

06:51:08 **4** A. Yes.

-08:-44:-38 **5** Q. That was in the summer of 2005, June or July of 2005?

06:51:14 **6** A. July.

06:51:16 **7** Q. And Wassim Mazloun also had an interview in July of

-08:-44:-38 **8** 2005, isn't that true?

06:51:26 **9** A. Yes.

-08:-44:-38 **10** Q. He actually had to be in the United States to get

-08:-44:-38 **11** interviewed for his citizenship application; isn't that right?

-08:-44:-38 **12** A. Yes. We were just planning on going for about 40 days,

06:51:49 **13** just enough time for Wassim to meet the would be, you know,

-08:-44:-38 **14** bride and get to know her. And which only planned to stay a

-08:-44:-38 **15** very short time, then we would come back. But once he started

-08:-44:-38 **16** on his business, I mean, the financial situation changed. We

06:52:13 **17** didn't have enough money to -- and that's the financial, once we

-08:-44:-38 **18** started the business he couldn't afford to go to summer school,

06:52:26 **19** couldn't afford to pay tuition for the schools.

06:52:29 **20** Q. And you didn't go back to Lebanon in 2005?

-08:-44:-38 **21** A. No.

06:52:46 **22** MR. HERDMAN: If I could have just a moment, Your

06:52:49 **23** Honor.

06:52:49 **24** (Discussion had off the record.)

06:53:00 **25** MR. HERDMAN: I have nothing further, Your Honor.

06:53:03 **1** MR. HELMICK: Judge, may we have one moment?

06:53:07 **2** THE COURT: Sure.

06:53:08 **3** (Discussion had off the record.)

06:53:12 **4** MR. HERDMAN: Your Honor, the exhibit that's on the

-08:-44:-38 **5** screen, I think I should mark that as Government's Exhibit 221.

06:53:19 **6** We'll have it marked. I'd offer that into evidence as well.

-08:-44:-38 **7** THE COURT: Any objection to the exhibit that will

-08:-44:-38 **8** be marked?

06:53:32 **9** MR. HELMICK: No, Your Honor.

06:53:33 **10** THE COURT: It will be admitted.

06:53:35 **11** MR. HERDMAN: I'll mark it as 222.

06:53:35 **12** - - -

06:53:35 **13** SALWA ELKHECHEN, REDIRECT EXAMINATION

06:55:17 **14** BY MR. ABDRAABOH:

06:55:17 **15** Q. Just a couple quick questions. On the

06:55:21 **16** cross-examination I believe it was a question was asked of you,

-08:-44:-38 **17** had it not been for the Israelis, you wouldn't have been caught

06:55:29 **18** in the fire; is that correct? Is that correct?

06:55:53 **19** THE INTERPRETER: You have to finish your question.

-08:-44:-38 **20** I'm sorry.

-08:-44:-38 **21** BY MR. ABDRAABOH:

-08:-44:-38 **22** Q. On cross-examination you testified regarding the -- that

-08:-44:-38 **23** had the Israelis not invaded --

06:56:03 **24** The question was posed had the Israelis not

06:56:05 **25** invaded, then you and your family would not have been caught in

-08:-44:-38 **1** the fire; is that correct?

06:56:19 **2** **A.** Yes. Correct. Yeah, I wasn't -- I didn't have to

-08:-44:-38 **3** leave, yes.

-08:-44:-38 **4** **Q.** Were there other reasons, totally irrespective of

06:56:29 **5** Israeli involvement in Lebanon -- can I finish my question

06:56:51 **6** please -- that were political in nature that caused you concern?

06:57:00 **7** THE WITNESS: Yeah.

06:57:01 **8** BY MR. ABDRABBOH:

06:57:01 **9** **Q.** What were they?

06:57:09 **10** THE INTERPRETER: Did you mean --

06:57:11 **11** MR. ABDRABBOH: Your Honor, may we approach for a

-08:-44:-38 **12** moment, please?

06:57:15 **13** (Whereupon the following discussion was had at the

06:59:58 **14** bench outside the hearing of the jury:)

06:59:58 **15** MR. ABDRABBOH: Very quickly, I mean I'm just

-08:-44:-38 **16** increasingly frustrated but most recently on my redirect. This

-08:-44:-38 **17** translation is just not even close. And I'm in an

-08:-44:-38 **18** uncomfortable position.

-08:-44:-38 **19** THE COURT: Why don't you have the translator come

-08:-44:-38 **20** over here, please.

-08:-44:-38 **21** MR. ABDRABBOH: I get it. He kind of cut me off

-08:-44:-38 **22** to start part of my question, and I wasn't allowed to finish.

-08:-44:-38 **23** THE COURT: Amy, why don't have you the translator

-08:-44:-38 **24** come over.

-08:-44:-38 **25** MR. ABDRABBOH: I have some issues with the

-08:-44:-38 **1** translation. I have some issues with the content of the way my
-08:-44:-38 **2** questions are being translated. And also, her response back to
-08:-44:-38 **3** you.

-08:-44:-38 **4** THE INTERPRETER: Okay.

-08:-44:-38 **5** MR. ABDRABBOH: I have that issue as far as
-08:-44:-38 **6** accuracy.

-08:-44:-38 **7** THE INTERPRETER: What is the issue?

-08:-44:-38 **8** MR. ABDRABBOH: I don't feel like it was translated
-08:-44:-38 **9** correctly.

-08:-44:-38 **10** THE COURT: What is the question?

-08:-44:-38 **11** MR. ABDRABBOH: My question was outside of the
-08:-44:-38 **12** Israeli incursions, was there concerns for her politically in
-08:-44:-38 **13** Lebanon? And I believe from my ear the way you translated that
-08:-44:-38 **14** is: What other problems were there in Lebanon? That's how I
-08:-44:-38 **15** took the translation to mean. And the reason I think that's
-08:-44:-38 **16** the way she took it is the way she answered it.

-08:-44:-38 **17** THE COURT: Any other questions that you're asking?

-08:-44:-38 **18** MR. ABDRABBOH: I think the other two are pretty
-08:-44:-38 **19** straight forward.

-08:-44:-38 **20** THE COURT: Why don't you ask that specific
-08:-44:-38 **21** question translated literally.

-08:-44:-38 **22** MR. ABDRABBOH: I only have two more after that.
-08:-44:-38 **23** (End of side-bar discussion.)

07:00:02 **24** THE COURT: You may continue.

07:00:09 **25** BY MR. ABDRABBOH:

07:00:09 **1** Q. Other than the Israeli invasions and incursions you
-08:-44:-38 **2** testified to on direct and cross, was there anything else
-08:-44:-38 **3** political going on in Lebanon that caused you concern at the
-08:-44:-38 **4** time you and your family lived there?

07:00:55 **5** THE INTERPRETER: I'm going to repeat it to her.

07:01:18 **6** A. The civil war, the way we were living, the welfare --
-08:-44:-38 **7** our welfare, psychological -- to how we felt psychological.

07:01:30 **8** BY MR. ABDRABBOH:

07:01:30 **9** Q. There were -- were there other conflicts inside of
07:01:34 **10** Lebanon during the time you lived there that had nothing to do
-08:-44:-38 **11** with Israel?

07:01:45 **12** A. There was the civil liberty -- civil war, also the
-08:-44:-38 **13** presence of the Syrian.

07:01:51 **14** Q. For purposes of clarity, in 1981, where were you living?

07:02:06 **15** THE WITNESS: '81?

-08:-44:-38 **16** BY MR. ABDRABBOH:

-08:-44:-38 **17** Q. '81, yes.

07:02:10 **18** A. I was living in the village of my husband. That's the
07:02:15 **19** year Wassim was born.

07:02:16 **20** Q. Was that village occupied?

07:02:23 **21** A. The Syrians were in the village.

-08:-44:-38 **22** Q. Was the village that you originated from occupied in
07:02:31 **23** 1981?

07:02:36 **24** THE WITNESS: In '81?

07:02:38 **25** BY MR. ABDRABBOH:

07:02:38 **1** Q. 1981, yes.

07:02:45 **2** THE WITNESS: No.

07:02:46 **3** A. No.

-08:-44:-38 **4** BY MR. ABDRABBOH:

-08:-44:-38 **5** Q. Is the Lebanese government allied or friendly with the

-08:-44:-38 **6** United States government?

07:02:54 **7** MR. HERDMAN: Your Honor, I'm going to object.

-08:-44:-38 **8** Ask for a timeframe.

07:03:00 **9** THE COURT: Could we get a timeframe for that,

-08:-44:-38 **10** please? Rephrase the question with a timeframe.

07:03:11 **11** BY MR. ABDRABBOH:

07:03:11 **12** Q. To the best of your knowledge, between 1981 and 2000

-08:-44:-38 **13** when you came, was the general policy of the Lebanese government

-08:-44:-38 **14** to be an ally or friendly with the United States government?

-08:-44:-38 **15** MR. HERDMAN: That I'm going to object to, Your

07:03:26 **16** Honor. I'm not sure the basis of her --

07:03:31 **17** THE COURT: Why don't you again put it in terms of

-08:-44:-38 **18** her understanding and put a timeframe.

-08:-44:-38 **19** BY MR. ABDRABBOH:

-08:-44:-38 **20** Q. To the best of your understanding, when you lived in

-08:-44:-38 **21** Lebanon, from the time periods 1981 to 2000, was the Lebanese

07:03:56 **22** government allied or friendly with the United States government?

07:04:12 **23** A. Whether it was allied or not, that's a political

-08:-44:-38 **24** question. But they were friends.

-08:-44:-38 **25** Q. So the question was, were they, to the best of her

-08:-44:-38 **1** knowledge, allied?

07:04:26 **2** **A.** Yeah, I would say because the American Navy was on the
-08:-44:-38 **3** shores of Lebanon.

07:04:34 **4** MR. ABDRABBOH: I have no further questions, Judge.

-08:-44:-38 **5** THE COURT: Mr. Herdman?

-08:-44:-38 **6** MR. HERDMAN: No, Your Honor, I don't have any
-08:-44:-38 **7** other questions.

07:04:46 **8** THE COURT: You can tell her she's free to step

07:04:49 **9** down. She's free to go or welcome to stay.

-08:-44:-38 **10** Counsel, come on up for just a brief moment.

07:05:12 **11** (Whereupon the following discussion was had outside
07:09:13 **12** the hearing of the jury:)

07:09:13 **13** THE COURT: Are you resting now or do you have
-08:-44:-38 **14** further evidence?

-08:-44:-38 **15** MR. HELMICK: We have no further witnesses to call

-08:-44:-38 **16** at this time. We have one exhibit which was the January 30,

-08:-44:-38 **17** 2006 conversation that was played between Mr. Griffin and Mr.

-08:-44:-38 **18** Mazloun. We've already previously marked that. So we'll move

-08:-44:-38 **19** for its admission right now. It's Exhibit M1-1D-115.

-08:-44:-38 **20** THE COURT: If you want, subject to the

-08:-44:-38 **21** government's objection, to say simply to refresh the jury's

-08:-44:-38 **22** recollection, there is a conversation between X and Y in which

-08:-44:-38 **23** the general subject was A, B or whatever. So they know what

-08:-44:-38 **24** you're talking about.

-08:-44:-38 **25** MR. SOFER: I have no objection to the date, place,

-08:-44:-38 **1** but the substance of it I would be --

-08:-44:-38 **2** THE COURT: What would you say given the

-08:-44:-38 **3** opportunity?

-08:-44:-38 **4** MR. HELMICK: Given the opportunity I would say it

-08:-44:-38 **5** was a conversation about Mr. Mazloun's car business between Mr.

-08:-44:-38 **6** Mazloun and Mr. Griffin on January 30, 1 --

-08:-44:-38 **7** MR. SOFER: Absolutely no objection.

-08:-44:-38 **8** THE COURT: Just so they can make a note.

-08:-44:-38 **9** MR. HELMICK: We understand that we're resting now,

-08:-44:-38 **10** but we'd also -- we may ask to reopen our case on an issue or

-08:-44:-38 **11** two. One is we may ask the Court to take some judicial notice

-08:-44:-38 **12** about Lebanese law in terms of the military requirement that

-08:-44:-38 **13** existed at that time. We'd have to provide something to the

-08:-44:-38 **14** government and the Court to see if that's acceptable, unless

-08:-44:-38 **15** the government is prepared to stipulate, which I doubt. I do

-08:-44:-38 **16** not think it's in dispute, Your Honor. It's well publicized.

-08:-44:-38 **17** It's on the United States State Department website. We'll

-08:-44:-38 **18** attempt to provide the Court with further information.

-08:-44:-38 **19** THE COURT: You'll rest subject to possible

-08:-44:-38 **20** submission of a further item or two. We'll just let it go at

-08:-44:-38 **21** that. Do you want me to give a charge with regard to Mr.

-08:-44:-38 **22** Mazloun's right to remain silent?

-08:-44:-38 **23** MR. HELMICK: Not at this time. We prefer it just

-08:-44:-38 **24** be in the general jury instructions.

-08:-44:-38 **25** MR. SOFER: The second --

-08:-44:-38 **1** MR. HELMICK: There may be nothing but there were
-08:-44:-38 **2** two correction of translation matters we brought to government's
-08:-44:-38 **3** attention some time ago. Mr. Getz is investigating that. My
-08:-44:-38 **4** hope is that could be resolved.

-08:-44:-38 **5** MR. SOFER: If we hear it, and they're right, there
-08:-44:-38 **6** will be no problem.

-08:-44:-38 **7** MR. HELMICK: That's it. Did I move for admission
-08:-44:-38 **8** -- I did move for admission. I'll do that on the record with
-08:-44:-38 **9** that brief description.

-08:-44:-38 **10** THE COURT: Then the case will be with Mr. Amawi.
-08:-44:-38 **11** Are you ready to go?

-08:-44:-38 **12** MS. CLEARY: We are.

-08:-44:-38 **13** MR. HARTMAN: We were going to do our thing first.

-08:-44:-38 **14** THE COURT: Do your thing?

-08:-44:-38 **15** MR. HARTMAN: That's moving 13 or 14.

-08:-44:-38 **16** THE COURT: I gather you don't want a charge on the
-08:-44:-38 **17** right to remain silent.

-08:-44:-38 **18** MR. HARTMAN: I may want to talk that over with my
-08:-44:-38 **19** co-counsel. Because we didn't put on any evidence at all.

-08:-44:-38 **20** THE COURT: I'd be glad to do that. Why don't you
-08:-44:-38 **21** rest. Why don't you say, Judge, we'd like you to charge on A,
-08:-44:-38 **22** B...

07:09:19 **23** Any further witnesses or evidence from Mr. Mazloun?

07:09:23 **24** MR. HELMICK: No witnesses. We are completed. We
-08:-44:-38 **25** would move for admission at this time of one exhibit which is

07:09:29 **1** the recording that was played during Mr. Griffin's
07:09:32 **2** cross-examination. It is labeled M for Mazloun, 1-1D-115.
07:09:42 **3** Judge, that awkward name includes the 1D number of the
07:09:47 **4** recording, which will hopefully be helpful to the jury.
-08:-44:-38 **5** THE COURT: Why don't you repeat that.
07:09:52 **6** MR. HELMICK: M1-1D-115. Just briefly, I don't
-08:-44:-38 **7** think this is contested. That is the audiotaped conversation
07:10:09 **8** between Mr. Griffin and Mr. Mazloun at his car business on
07:10:15 **9** January 30, 2006.
07:10:19 **10** THE COURT: Okay.
07:10:21 **11** MR. HELMICK: So we move that into evidence at
-08:-44:-38 **12** this time.
-08:-44:-38 **13** THE COURT: That will be admitted. Do you have
07:10:27 **14** any further -- other witnesses or exhibits?
07:10:31 **15** MR. HELMICK: No, Your Honor, at this time Mr.
-08:-44:-38 **16** Mazloun rests.
-08:-44:-38 **17** THE COURT: Although I understand subject to
07:10:39 **18** proffer, one or two other items?
-08:-44:-38 **19** MR. HELMICK: That's right, Your Honor.
-08:-44:-38 **20** THE COURT: Ladies and gentlemen, Mr. Mazloun and
-08:-44:-38 **21** his counsel completed the presentation of their case. Counsel
07:10:48 **22** informed me at sidebar there may be a couple other items that
07:10:52 **23** they may wish to offer. If so, and if they are admitted, I
-08:-44:-38 **24** will notify you at that time. So subject to that possibility,
-08:-44:-38 **25** the defense for Mr. Mazloun rests.

07:11:05 **1** Mr. Hartman, on behalf of Mr. El-Hindi?

07:11:08 **2** MR. HARTMAN: Your Honor, the first thing we would

-08:-44:-38 **3** like to do is formally move for admission of the exhibits we

07:11:14 **4** used during cross-examination. I have about 12 to 14

07:11:19 **5** recordings that I would like to identify for the jury that we're

-08:-44:-38 **6** moving.

-08:-44:-38 **7** THE COURT: If you'll do so fairly slowly, please,

-08:-44:-38 **8** so we can make appropriate notes.

07:11:34 **9** MR. HARTMAN: Judge, the first one is EH -- the

-08:-44:-38 **10** report states that Exhibit EH1 is a series of audio and video

07:11:43 **11** recordings used in cross-examination. So they are

-08:-44:-38 **12** subcategorized.

07:11:48 **13** Exhibit EH1-020 is from January 28 of 2004, and in

-08:-44:-38 **14** trial we identified it as clip 3 from that date. It is the

-08:-44:-38 **15** government's 1D-62.

-08:-44:-38 **16** I'm just going to go through these one at a time.

-08:-44:-38 **17** If I'm going too fast for anybody, just let me know.

07:12:18 **18** Exhibit EH1-36 is from June 23 of 2004. It was

-08:-44:-38 **19** identified as clip 1 from that date. And it's Government's

07:12:33 **20** Exhibit 1D-73.

07:12:41 **21** Exhibit 1D-38 -- Exhibit EH1-38 is from 6/29 of

07:12:51 **22** '04. It was identified as clip 1 from that date. And it's

-08:-44:-38 **23** Government's Exhibit I.D. Number 76.

07:13:06 **24** Exhibit EH1-39 is government's item --

07:13:14 **25** Government's Exhibit I.D. Number 77. It doesn't have a clip

07:13:18 **1** number. It is the video -- the entire video of the ICNA
-08:-44:-38 **2** conference from July 3 and 4. Again that's EH1-39.
07:13:32 **3** EH1-41 is from July 15, 2004.
-08:-44:-38 **4** THE COURT: I'm sorry. Back up. Start over
07:13:42 **5** again.
07:13:43 **6** MR. HARTMAN: This one. EH1-41 from July 15,
07:13:51 **7** 2004. It was identified as clip 2 during the cross-examination
07:14:00 **8** and comes from the government's 1D-81.
07:14:11 **9** Exhibit EH1-42 is from the same date, the same
-08:-44:-38 **10** 1D-number, 1D-81, but was identified as clip 3 during trial.
07:14:30 **11** THE COURT: Also 1D-81, did you say?
-08:-44:-38 **12** MR. HARTMAN: Yes. That was also 1D-81.
07:14:41 **13** Exhibit EH1-49 is from July 27 of 2004. It was
-08:-44:-38 **14** clip 1 from the government's 1D-86.
07:15:01 **15** The next four are all from October 8 of 2004.
-08:-44:-38 **16** They're all from Government's Exhibit 1D-90. They are in
-08:-44:-38 **17** order: EH1-56, EH1-57, EH1-59, and EH1-80. During trial we
07:15:33 **18** identified those as clip numbers 1, 2, 4, and 15.
-08:-44:-38 **19** THE JUROR: That's with the 1D-90.
07:15:53 **20** MR. HARTMAN: Yes, those were all 1D-90.
07:15:57 **21** THE COURT: Clip 1.
07:15:59 **22** MR. HARTMAN: 2.
07:16:01 **23** THE COURT: Wait a minute. That's the one.
07:16:15 **24** MR. HARTMAN: The last two were clip 4 and 15.
07:16:43 **25** I'm sorry, I did make a mistake. The last from

-08:-44:-38 **1** October 8 is EH1-60, not 80. I apologize for that.

07:16:59 **2** THE COURT: Did you say 60 rather than 80?

07:17:03 **3** MR. HARTMAN: Yes.

-08:-44:-38 **4** THE COURT: So the last Exhibit you just offered is

-08:-44:-38 **5** EH1-60, October 8, clip 15. And also from the equivalent of

07:17:16 **6** government 1D-90.

07:17:18 **7** MR. HARTMAN: That's correct. The next one is

-08:-44:-38 **8** EH1-167. It is from March 9, 2005 from government 1D-30.

07:17:32 **9** THE COURT: Does have it a clip number?

-08:-44:-38 **10** MR. HARTMAN: It does not have a clip number. It

-08:-44:-38 **11** was a phone call. One second, please.

-08:-44:-38 **12** (Discussion had off the record.)

07:18:19 **13** MR. HARTMAN: Exhibit 1-167 from government's 1D-30

-08:-44:-38 **14** is from March 9, 2005. It was a phone call between Mr. Griffin

07:18:37 **15** and one of the FBI agent handlers.

07:18:45 **16** Exhibit EH2 is a document, was the contract -- the

-08:-44:-38 **17** agreement, sorry, dated 9/18 of 2002 between Mr. Griffin and the

-08:-44:-38 **18** government. Exhibit EH3 was the second written agreement

07:19:13 **19** between Mr. Griffin and the government; that was dated 22,

-08:-44:-38 **20** August, 2005.

07:19:23 **21** Exhibit EH4 is the last of the discs. It is 1D-29

07:19:31 **22** from February 16 of 2005.

07:19:39 **23** THE JUROR: EH2. Don't have a 1D-EH4; it's 1D-29.

-08:-44:-38 **24** THE COURT: I think the question is EH Number 2, is

07:19:51 **25** the document, the agreement between Mr. Griffin and the

07:19:54 **1** government dated September 18, 2005. Number 3 likewise does
-08:-44:-38 **2** not have a 1D number because it's not a recording. It's also a
-08:-44:-38 **3** document. It's the second agreement dated August 22, 2005,
07:20:09 **4** between the government and Mr. Griffin.
07:20:11 **5** MR. HARTMAN: That's correct.
-08:-44:-38 **6** THE COURT: So that's why they don't have a
07:20:14 **7** 1D-number.
07:20:15 **8** MR. HARTMAN: That's correct.
-08:-44:-38 **9** EH4 was 1D-29. It's the video of February 16,
07:20:26 **10** 2005, from Mr. El-Hindi's house.
07:20:34 **11** MR. HARTMAN: Other than that we also marked
07:20:37 **12** defendant's EH5, and EH6 for identification only, but we're not
07:20:43 **13** offering those as exhibits.
-08:-44:-38 **14** THE COURT: Okay. So that completes your list of
-08:-44:-38 **15** exhibits being offered?
07:20:55 **16** MR. HARTMAN: It does. If I might take one quick
-08:-44:-38 **17** moment.
07:21:07 **18** THE COURT: Of course.
07:21:21 **19** (Discussion had off the record.)
-08:-44:-38 **20** MR. HARTMAN: Your Honor, it is Marwan's decision
07:21:25 **21** to not present any evidence but to rest on his presumption of
07:21:30 **22** innocence. We would ask that the Court charge the jury
07:21:33 **23** accordingly.
07:21:34 **24** THE COURT: You are presenting those exhibits
-08:-44:-38 **25** though?

-08:-44:-38 **1** MR. HARTMAN: The exhibits, yes.

07:21:38 **2** THE COURT: But other than that you are not calling
07:21:40 **3** any witnesses and he has elected not to testify; is that
-08:-44:-38 **4** correct.

07:21:44 **5** MR. HARTMAN: That's correct. All of our exhibits
-08:-44:-38 **6** came from the government's case in chief, our
07:21:50 **7** cross-examinations.

07:21:51 **8** THE COURT: Okay. Ladies and gentlemen, Mr.
07:21:54 **9** El-Hindi has elected to put the government to its proof.

07:21:59 **10** You'll recall during the voir dire with each of you I believe I
07:22:06 **11** undertook and made clear that no one charged with a crime by the
-08:-44:-38 **12** federal government has any obligation whatsoever of any kind to
07:22:15 **13** present evidence, and that includes every single one of us has
-08:-44:-38 **14** the right to exercise the right to remain silent. Both of
-08:-44:-38 **15** those are among the most fundamental rights that all of us enjoy
07:22:29 **16** under the Constitution. And our right to exercise them and
07:22:36 **17** indeed the exercise of those rights very fundamentally upholds
-08:-44:-38 **18** and maintains the integrity of the Constitution and the rights
-08:-44:-38 **19** we all enjoy under that most fundamental and most important of
-08:-44:-38 **20** all documents.

-08:-44:-38 **21** I instruct you to draw absolutely no inferences of
-08:-44:-38 **22** any kind whatsoever from Mr. El-Hindi's exercise of our common
07:23:02 **23** constitutional rights and do not speculate as to why he might
-08:-44:-38 **24** have elected to exercise those fundamental rights. The fact
-08:-44:-38 **25** that he has done so is not evidence and cannot be considered by

07:23:15 **1** you in any way whatsoever because, as I remind you -- and I
-08:-44:-38 **2** spoke with each of you at some length during voir dire -- your
07:23:24 **3** oath as jurors and your obligation as jurors requires you to
-08:-44:-38 **4** decide the case only on the evidence, that is the testimony of
-08:-44:-38 **5** the witnesses that you hear here in court and the exhibits that
07:23:37 **6** you'll take with you back to the jury room.
-08:-44:-38 **7** The case is now with Mr. Amawi.
07:23:45 **8** MS. CLEARY: Your Honor, may we approach, please?
-08:-44:-38 **9** THE COURT: Sure.
-08:-44:-38 **10** (Whereupon the following discussion was had at the
07:27:14 **11** bench outside the hearing of the jury:)
07:27:14 **12** MS. CLEARY: We were going to play the clip from
-08:-44:-38 **13** January 27, 2005. We were going to play it from the 20:10 mark
-08:-44:-38 **14** to the rest -- to the end of those two segments.
-08:-44:-38 **15** MR. WITMER-RICH: In other words, we're going to
-08:-44:-38 **16** play it from the beginning -- the clip we had identified.
-08:-44:-38 **17** There's a government clip right before it and right after it.
-08:-44:-38 **18** We're going to agree -- the government requested and we're going
-08:-44:-38 **19** to agree to begin our clip at the beginning of the government's
-08:-44:-38 **20** first clip, play it through, then play to the end of the
-08:-44:-38 **21** government's second clip that encompasses that selection.
-08:-44:-38 **22** MR. SOFER: You're using our transcript for two
-08:-44:-38 **23** clips, and what's in the middle; did you change anything that
-08:-44:-38 **24** was in the middle?
-08:-44:-38 **25** MS. CLEARY: We're using what was given to us.

-08:-44:-38 **1** MR. SOFER: We ask for the video.

-08:-44:-38 **2** This is captured on both audio and video. And

-08:-44:-38 **3** under the rule of completeness, to play the video I think is the

-08:-44:-38 **4** way it should be done.

-08:-44:-38 **5** MR. BRYAN: Did you guys play the video in direct?

-08:-44:-38 **6** MR. MILLER: We have it clipped on the video.

-08:-44:-38 **7** MS. CLEARY: If you have the whole thing clipped,

-08:-44:-38 **8** that's fine.

-08:-44:-38 **9** MR. MILLER: Because initially over the weekend you

-08:-44:-38 **10** started from A after our clip then went through our second clip

-08:-44:-38 **11** then after that. So we assumed that you would want to play

-08:-44:-38 **12** from the beginning, for the rule of completeness play

-08:-44:-38 **13** everything. So we have our clip, then the stuff that you

-08:-44:-38 **14** initially designated through our next clip, then that extra part

-08:-44:-38 **15** that you designated. We have all of that clipped on video.

-08:-44:-38 **16** MR. WITMER-RICH: On video.

-08:-44:-38 **17** MS. CLEARY: That's fine.

-08:-44:-38 **18** THE COURT: How long will that take?

-08:-44:-38 **19** MR. MILLER: It's only four or five minutes.

-08:-44:-38 **20** THE COURT: Okay. With all those clips I thought

-08:-44:-38 **21** we'd be here for hours.

-08:-44:-38 **22** MR. SOFER: Who is the next witness?

-08:-44:-38 **23** MS. CLEARY: Mannoun Shakkour.

-08:-44:-38 **24** THE COURT: Can we get her done today?

-08:-44:-38 **25** MS. CLEARY: Absolutely.

-08:-44:-38 **1** THE COURT: Then how much longer do you think your
-08:-44:-38 **2** case will take in terms of two more days?

-08:-44:-38 **3** MS. CLEARY: I know at least we have the two
-08:-44:-38 **4** witnesses from Jordan that we can finish in the morning after we
-08:-44:-38 **5** finish with Mr. Amawi. Beyond that...

-08:-44:-38 **6** MR. WITMER-RICH: I would expect that we could
-08:-44:-38 **7** finish tomorrow. But there's a chance...

-08:-44:-38 **8** THE COURT: So anyway, because I can't have court
-08:-44:-38 **9** on Friday. I checked my flight schedule. I have to leave
-08:-44:-38 **10** here at 10:00.

-08:-44:-38 **11** MR. SOFER: We have no court this Friday?

-08:-44:-38 **12** THE COURT: Right. Do you presently expect a
-08:-44:-38 **13** rebuttal?

-08:-44:-38 **14** MR. SOFER: I don't at the moment expect much in the
-08:-44:-38 **15** way of rebuttal. That could change radically in the next
-08:-44:-38 **16** couple minutes.

07:27:16 **17** THE COURT: Ladies and gentlemen, it's my
07:27:19 **18** understanding that Mr. Amawi at this time will offer a series of
07:27:29 **19** video clips, and they are numbered, if you have them.

-08:-44:-38 **20** MS. CLEARY: Exhibit 36.

07:27:40 **21** THE COURT: This will be 36.

07:27:42 **22** MS. CLEARY: A-36.

07:27:46 **23** THE COURT: And just to set the frame, what is the
-08:-44:-38 **24** date of this?

07:27:52 **25** MR. WITMER-RICH: We're going to call a witness,

-08:-44:-38 **1** Your Honor.

-08:-44:-38 **2** THE COURT: I'm sorry. I misunderstood.

07:27:56 **3** MS. CLEARY: We would call Mannoun Shakkour, Your

07:29:00 **4** Honor.

07:29:00 **5** (The witness was sworn by the clerk.)

07:29:05 **6** THE COURT: Good afternoon. You have to sit about

-08:-44:-38 **7** this distance from the microphone. So pull the chair up. If

07:29:16 **8** you're too far back, we can't hear. If you're too close it's

-08:-44:-38 **9** kind of fuzzy.

07:29:23 **10** THE WITNESS: Should I come closer?

07:29:25 **11** THE COURT: Maybe a little closer. Then move the

-08:-44:-38 **12** microphone.

07:29:31 **13** Will you tell the ladies and gentlemen of the jury

-08:-44:-38 **14** your name, please?

07:29:34 **15** THE WITNESS: Mannoun Shakkour.

-08:-44:-38 **16** THE COURT: How do spell your name?

-08:-44:-38 **17** THE WITNESS: M-A-N-N-O-U-N.

07:29:40 **18** THE COURT: M-A-N-N-O-U-N. And your last name?

-08:-44:-38 **19** THE WITNESS: S-H-A-K-K-O-U-R.

07:29:51 **20** THE COURT: What is your city or community of

-08:-44:-38 **21** residence?

07:29:54 **22** THE WITNESS: Cleveland.

-08:-44:-38 **23** THE COURT: Where were you born?

-08:-44:-38 **24** THE WITNESS: Lebanon.

07:29:58 **25** THE COURT: And how long have you lived in this

07:30:00 **1** country?

-08:-44:-38 **2** THE WITNESS: Since '89.

07:30:04 **3** THE COURT: Are you a citizen?

-08:-44:-38 **4** THE WITNESS: I am a citizen.

-08:-44:-38 **5** THE COURT: When did you become a U.S. citizen?

-08:-44:-38 **6** THE WITNESS: I would say, Your Honor, maybe '91 or

07:30:11 **7** '92.

-08:-44:-38 **8** THE COURT: Shortly after you came. Very good.

-08:-44:-38 **9** Are you presently employed or have an occupation?

-08:-44:-38 **10** THE WITNESS: I am a language bank coordinator.

07:30:26 **11** THE COURT: Language?

07:30:28 **12** THE WITNESS: Bank.

-08:-44:-38 **13** THE COURT: B-A-N-K.

-08:-44:-38 **14** THE WITNESS: Coordinator.

07:30:31 **15** THE COURT: What is a "language bank coordinator"?

-08:-44:-38 **16** THE WITNESS: We provide interpretation translation

-08:-44:-38 **17** services for Cuyahoga County, Lake County, Cleveland Municipal

-08:-44:-38 **18** Court. U.S. District Court. Immigration, Social Services,

07:30:49 **19** hospitals, and individual requests.

07:30:52 **20** THE COURT: And she called as an interpreter or

-08:-44:-38 **21** some other purpose?

-08:-44:-38 **22** MS. CLEARY: She would, Your Honor. I would

07:31:00 **23** proffer her as such.

-08:-44:-38 **24** THE COURT: And what languages are you fluent in?

07:31:05 **25** THE WITNESS: Arabic is my native.

-08:-44:-38 **1** THE COURT: And English as well?

07:31:09 **2** THE WITNESS: Yes.

07:31:10 **3** THE COURT: Very good.

07:31:10 **4** - - -

07:31:10 **5** MANNOUN SHAKKOUR, DIRECT EXAMINATION

-08:-44:-38 **6** BY MS. CLEARY:

-08:-44:-38 **7** Q. Ms. Shakkour, I noticed that you do provide translation

-08:-44:-38 **8** and interpretation services.

-08:-44:-38 **9** A. Yes, ma'am.

-08:-44:-38 **10** Q. Can you explain to jury the difference between those two

07:31:21 **11** services?

-08:-44:-38 **12** A. Interpretation is on-site interpretation, meaning you

07:31:28 **13** receive a request, you show up at the site. And you will

07:31:32 **14** provide as an interpreter, the English native language

07:31:38 **15** interpretation between the provider and the Arabic speaker, and

07:31:42 **16** I'm talking specifically for Arabic, and any other language.

07:31:48 **17** For translation you have a written document and you

-08:-44:-38 **18** translate it into the target language. It can be from English

07:31:59 **19** to French from French to Arabic. It depends on the need of the

-08:-44:-38 **20** client.

-08:-44:-38 **21** Q. And do you speak languages other than English and Arabic

07:32:07 **22** fluently?

-08:-44:-38 **23** A. I would say that I read and write French fluently. I

-08:-44:-38 **24** also -- I don't interpret in French. I do only written.

07:32:20 **25** Q. Do you provide Arabic interpretation and translation

-08:-44:-38 **1** services for various courts in Ohio?

-08:-44:-38 **2** **A.** Yes, I do.

07:32:28 **3** THE COURT: Ms. Cleary, can you get a little closer

-08:-44:-38 **4** to the mike?

-08:-44:-38 **5** MS. CLEARY: Certainly, Your Honor.

07:32:37 **6** THE COURT: Maybe a little closer or speak up.

-08:-44:-38 **7** BY MS. CLEARY:

-08:-44:-38 **8** **Q.** Ms. Shakkour, I'm going to put on the document camera

07:32:58 **9** what I've marked as A-34. Do you recognize this document?

-08:-44:-38 **10** **A.** It's my resumé.

07:33:04 **11** **Q.** And when you note on your resumé the different court

07:33:08 **12** experiences, how many times would you say that you translated or

07:33:12 **13** interpreted in court?

07:33:13 **14** **A.** I would say at the level of Cleveland Municipal Court,

-08:-44:-38 **15** in the nature of 300 assignments.

07:33:22 **16** **Q.** Did you have to receive any sort of training in order to

07:33:25 **17** be able to translate or interpret for court?

-08:-44:-38 **18** **A.** I did receive training. Training was offered in Akron,

-08:-44:-38 **19** then the Supreme Court stepped in and made it as a requirement

-08:-44:-38 **20** for legal interpreters to attend training. So I did attend

07:33:47 **21** training, yes.

-08:-44:-38 **22** **Q.** It is an ongoing training that you continue to keep up

-08:-44:-38 **23** with?

07:33:52 **24** **A.** I should.

-08:-44:-38 **25** **Q.** And do you?

-08:-44:-38 **1** A. I do.

07:33:58 **2** Q. Ms. Shakkour, can you explain exactly what it means to

-08:-44:-38 **3** be an Arabic language skilled interpreter?

07:34:05 **4** A. By guidelines the U.S. District Court, Arabic language

07:34:12 **5** skilled interpreters is an interpreter who's an English speaker

-08:-44:-38 **6** of the Arabic language, has a command of that language and the

-08:-44:-38 **7** same thing applies to the target language, in this case the

07:34:24 **8** English language.

07:34:26 **9** MS. CLEARY: Thank you.

-08:-44:-38 **10** Your Honor, we would offer Ms. Shakkour as an

-08:-44:-38 **11** individual capable of giving an opinion on the translation and

07:34:33 **12** interpretation of the Arabic/English languages.

07:34:35 **13** THE COURT: Okay. She may testify.

-08:-44:-38 **14** BY MS. CLEARY:

-08:-44:-38 **15** Q. Ms. Shakkour, were you given an opportunity to listen to

-08:-44:-38 **16** an audio recording of a conversation occurring on January 27,

-08:-44:-38 **17** 2005, involving Mr. Amawi?

07:34:50 **18** A. Yes.

07:34:54 **19** Q. I'd like to review that audio recording with you.

07:35:05 **20** MR. MILLER: Your Honor, could we approach for a

07:35:07 **21** second?

-08:-44:-38 **22** THE COURT: Sure.

07:35:08 **23** (Whereupon the following discussion was had at the

07:40:24 **24** bench outside the hearing of the jury:)

07:40:24 **25** MR. SOFER: We're just trying to figure out what

-08:-44:-38 **1** the modus operandi is here. Are you -- she going to differ

-08:-44:-38 **2** with the government's translation?

-08:-44:-38 **3** MS. CLEARY: Absolutely not.

-08:-44:-38 **4** MR. SOFER: She's going to say it's an accurate
-08:-44:-38 **5** translation?

-08:-44:-38 **6** MS. CLEARY: She's going to say the transcript is
-08:-44:-38 **7** an accurate translation but Mr. Amawi mistranslated when he was
-08:-44:-38 **8** repeating what he said.

-08:-44:-38 **9** MR. SOFER: She's going to listen to what's in the
-08:-44:-38 **10** background?

-08:-44:-38 **11** MS. CLEARY: Correct, and what's translated by the
-08:-44:-38 **12** government in the transcript.

-08:-44:-38 **13** MR. SOFER: I'm not sure I understand.

-08:-44:-38 **14** THE COURT: If I do -- there was Arabic being
-08:-44:-38 **15** spoken in the background?

-08:-44:-38 **16** MS. CLEARY: Correct.

-08:-44:-38 **17** THE COURT: Which is captured by Griffin?

-08:-44:-38 **18** MS. CLEARY: Correct.

-08:-44:-38 **19** THE COURT: During the course of the Arabic
-08:-44:-38 **20** transmission, Mr. Amawi was saying to Mr. Griffin that he's

-08:-44:-38 **21** saying A, B and C?

-08:-44:-38 **22** MS. CLEARY: Correct.

-08:-44:-38 **23** THE COURT: And is all of that, his statements
-08:-44:-38 **24** attributed to Mr. Amawi, by Mr. Amawi, you're not challenging

-08:-44:-38 **25** the transcription of those statements?

1 MS. CLEARY: No.

2 THE COURT: But what you are saying, what you want

3 her to testify to is you're going to ask her were you able to

4 hear the background statements in Arabic? Yes, I was. And

5 are you able to interpret those statements from English -- from

6 Arabic into English? Yes. Will you please do so, correct?

7 MS. CLEARY: Close. She's not even required to

8 listen to the background and interpret for the first time

9 because the government has already interpreted in their

10 transcript the audio that's being heard in the background.

11 MR. SOFER: That was my question. Since we have

12 the Arabic translated into English, then we have Mr. Amawi

13 saying whatever he says, why does that then require a witness to

14 say it's different?

15 MS. CLEARY: There's three times when Mr. Amawi in

16 the segment that we're playing gives his -- gives a translation

17 to Mr. Griffin regarding the Arabic. The first two times the

18 translation is accurate. The third time the translation is not

19 accurate. It's talking about something completely different.

20 MR. SOFER: Stop me if I'm wrong. That's all

21 captured on the four corners of the government's transcript.

22 MS. CLEARY: The language itself is captured.

23 MR. SOFER: Right. So why does it require a

24 witness to say these words are different than these words? You

25 can argue that. The jury can see it. The jury will see it when

-08:-44:-38 **1** it's played. Why does it take a witness to say this word is

-08:-44:-38 **2** different than this word?

-08:-44:-38 **3** MS. CLEARY: Because in her skill with the

-08:-44:-38 **4** interpretation and translation, we want our expert to be able to

-08:-44:-38 **5** say, beyond a reasonable doubt, that what Mr. Amawi is

-08:-44:-38 **6** translating cannot in any way be interpreted to be drawn from

-08:-44:-38 **7** that language.

-08:-44:-38 **8** MR. SOFER: Except that the government's own -- I

-08:-44:-38 **9** don't know if you want this kind of colloquy and argument,

-08:-44:-38 **10** Judge. But the government's own transcript acknowledges that.

-08:-44:-38 **11** In other words --

-08:-44:-38 **12** THE COURT: In other words, we have the Arabic

-08:-44:-38 **13** broadcast translated.

-08:-44:-38 **14** MR. SOFER: Into English.

-08:-44:-38 **15** THE COURT: There's no dispute apparently between

-08:-44:-38 **16** this witness and the translation that has already been placed.

-08:-44:-38 **17** MR. SOFER: Correct.

-08:-44:-38 **18** THE COURT: There's no dispute between the parties

-08:-44:-38 **19** as to the transcription of what Mr. Amawi said, including how he

-08:-44:-38 **20** translated the background Arabic.

-08:-44:-38 **21** MR. SOFER: Correct.

-08:-44:-38 **22** MS. CLEARY: Correct.

-08:-44:-38 **23** THE COURT: Then why, if these are already in the

-08:-44:-38 **24** record --

-08:-44:-38 **25** MS. CLEARY: Well, that portion is not the record.

-08:-44:-38 **1** THE COURT: It's not?

-08:-44:-38 **2** MR. SOFER: We don't object to playing it. I just

-08:-44:-38 **3** don't understand why it's necessary to have a witness say these

-08:-44:-38 **4** words are different than these words. If she wants to say

-08:-44:-38 **5** that -- it just seems like the jury can conclude it. Again,

-08:-44:-38 **6** it's on the four corners of the document.

-08:-44:-38 **7** THE COURT: I'm going to let them proceed.

-08:-44:-38 **8** MR. SOFER: Okay. Let me say why. Okay. It --

-08:-44:-38 **9** THE COURT: You probably won't find this in the

-08:-44:-38 **10** rules of evidence. But this is a very lengthy trial. There

-08:-44:-38 **11** are a ton of these exhibits. I think it's fair for defendants

-08:-44:-38 **12** to highlight their perception.

-08:-44:-38 **13** (End of side-bar discussion.)

07:40:30 **14** THE COURT: Okay. You may continue.

-08:-44:-38 **15** MS. CLEARY: Thank you, Your Honor.

07:40:46 **16** Ms. Shakkour, you may need the ear phones that are

07:40:50 **17** in front of you.

07:41:45 **18** (Video is played.)

07:44:18 **19** BY MS. CLEARY:

-08:-44:-38 **20** Q. Ms. Shakkour, on that segment just before we stopped,

-08:-44:-38 **21** were you able to identify the Arabic being spoken by someone

07:44:29 **22** other than Mr. Amawi?

-08:-44:-38 **23** A. Yes.

07:44:31 **24** Q. Were you able to determine if the translation that Mr.

07:44:36 **25** Amawi gave regarding that Arabic was correct?

07:44:41 **1** A. To this point, yes.

-08:-44:-38 **2** Q. Okay. Thank you.

07:44:51 **3** MS. CLEARY: Would you please continue?

07:45:24 **4** (Video played.)

07:45:28 **5** BY MS. CLEARY:

-08:-44:-38 **6** Q. And again, Ms. Shakkour, were you able to hear the

07:45:32 **7** Arabic from the speaker in the background?

-08:-44:-38 **8** A. Yes.

-08:-44:-38 **9** Q. And are you able to determine if what Mr. Amawi was

-08:-44:-38 **10** translating from that Arabic being spoken was accurate?

-08:-44:-38 **11** A. Mr. Amawi's translation was not accurate at all. It

07:45:46 **12** looks like three people are talking in different directions.

07:46:14 **13** (Video played.)

07:46:25 **14** BY MS. CLEARY:

07:46:25 **15** Q. And, Ms. Shakkour, on that segment were you again able

07:46:29 **16** to hear the Arabic in the background?

-08:-44:-38 **17** A. Yes.

-08:-44:-38 **18** Q. Was Mr. Amawi accurately translating what the Arabic in

-08:-44:-38 **19** the background was communicating?

-08:-44:-38 **20** A. He was not.

-08:-44:-38 **21** Q. Was there any mention of the Arabic in the background

-08:-44:-38 **22** about anyone from Syria going to Iraq?

-08:-44:-38 **23** A. Didn't hear anything about Syria or Iraq.

-08:-44:-38 **24** MS. CLEARY: If we could continue.

07:46:52 **25** (Video played.)

07:47:27 **1** MS. CLEARY: Ms. Shakkour, I have no further
-08:-44:-38 **2** questions. The government may have questions.
-08:-44:-38 **3** THE COURT: I'm having some trouble hearing you.
-08:-44:-38 **4** Keep your voice up.
07:47:39 **5** MS. CLEARY: I'm sorry.
07:47:45 **6** MR. MILLER: Your Honor, we'd like to actually
-08:-44:-38 **7** finish that clip that was part of that clip that they've
07:47:51 **8** designated.
07:47:54 **9** THE COURT: Okay.
07:48:00 **10** (Video played).
07:48:00 **11** - - -
07:48:00 **12** MANNOUN SHAKKOUR, CROSS-EXAMINATION
07:49:41 **13** BY MR. MILLER:
07:49:41 **14** **Q.** Good afternoon, Ms. Shakkour. My name is David Miller.
-08:-44:-38 **15** I have a few questions for you.
07:49:48 **16** First of all, Ms. Shakkour, you haven't listened to
07:49:52 **17** all of the audio recordings that are in evidence in this case,
-08:-44:-38 **18** have you?
-08:-44:-38 **19** **A.** I did not.
-08:-44:-38 **20** **Q.** And you haven't reviewed the translations of all the
07:50:02 **21** documents that are in evidence in this case?
-08:-44:-38 **22** **A.** I did not.
-08:-44:-38 **23** **Q.** And you haven't reviewed exhibits in this case that list
-08:-44:-38 **24** the computer files that were retrieved from Mr. Amawi's
07:50:10 **25** computer, right?

07:50:11 **1** A. I did not.

07:50:12 **2** Q. Now, turning to this clip that we just saw, Ms.

07:50:16 **3** Shakkour, in preparation for your testimony today you listened

07:50:19 **4** to an audio recording containing Arabic in this clip, correct?

-08:-44:-38 **5** A. Yes.

-08:-44:-38 **6** Q. And you translated that audio from that recording,

-08:-44:-38 **7** right?

07:50:27 **8** A. It was on-site translation.

07:50:30 **9** Q. So you listened to the audio that was in the background

07:50:33 **10** in Arabic and verified it against the transcript, correct?

-08:-44:-38 **11** A. I did. For that specific tape, yes.

-08:-44:-38 **12** Q. And in the video that we just played, which is this

07:50:43 **13** audio clip, you could see, couldn't you, that Mr. Amawi's also

07:50:47 **14** typing?

-08:-44:-38 **15** A. Right.

-08:-44:-38 **16** Q. While somebody is listening -- while there's audio

07:50:51 **17** emanating from the computer, right?

-08:-44:-38 **18** A. Yes.

07:50:53 **19** Q. Ms. Shakkour, but you never looked at what Mr. Amawi was

-08:-44:-38 **20** typing on the computer during this recording, did you?

-08:-44:-38 **21** A. I know that he was typing.

-08:-44:-38 **22** Q. But you never saw what he was typing, right?

-08:-44:-38 **23** A. No, I didn't.

07:51:06 **24** Q. And so while this voice is playing in the background,

-08:-44:-38 **25** Ms. Shakkour, and you can see that Mr. Amawi is typing, and Mr.

-08:-44:-38 **1** Amawi is talking to Mr. Griffin while he's typing and there's a

-08:-44:-38 **2** voice in the background, you have no idea what he's typing onto

-08:-44:-38 **3** that computer, do you?

-08:-44:-38 **4** **A.** No, I don't.

-08:-44:-38 **5** **Q.** And so you have no idea whether or not there's multiple

-08:-44:-38 **6** conversations going on, namely whether he's typing and whether

07:51:31 **7** there's an audio recording going on at the same time, right?

-08:-44:-38 **8** **A.** What I can say here is I'm hearing three voices there,

-08:-44:-38 **9** and the unidentified Arabic speaker, his voice was very clear to

-08:-44:-38 **10** me. And he was giving, like -- I wouldn't say verses from the

07:51:52 **11** Qur'an, but he was talking about religion and the situation of

07:51:56 **12** the Arabic language and what happened to it on the same token.

07:52:01 **13** I've heard the translation of Mr. Amawi which has nothing to do,

07:52:06 **14** no relation whatsoever with what the Arabic speaker was giving.

-08:-44:-38 **15** So that's what I heard.

-08:-44:-38 **16** **Q.** My question is: When you were just walked through the

-08:-44:-38 **17** clip the first two times, he said the translation is accurate.

-08:-44:-38 **18** This translation is accurate, correct, the first two times out

07:52:26 **19** of the three, correct?

-08:-44:-38 **20** **A.** Yes. Yes.

-08:-44:-38 **21** **Q.** And then when we got to the third one, and I could

-08:-44:-38 **22** replay the clip, there was an audio in the background, right?

-08:-44:-38 **23** **A.** Right.

-08:-44:-38 **24** **Q.** But Mr. Amawi was also typing on the computer, correct?

-08:-44:-38 **25** **A.** Right. Right.

-08:-44:-38 **1** Q. So there's no way for you to know whether he's
07:52:40 **2** translating what he's typing on the computer at that point in
-08:-44:-38 **3** time, correct?

-08:-44:-38 **4** A. What I'm saying is what Mr. Amawi said about Iraq to Mr.
07:52:56 **5** Griffin was not the translation of the Arabic speaker on the
07:53:00 **6** other end.

-08:-44:-38 **7** Q. It was not the translation of the audio that you've
-08:-44:-38 **8** heard, correct?

-08:-44:-38 **9** A. Exactly.

-08:-44:-38 **10** MR. MILLER: Okay. One moment, Your Honor.

07:53:14 **11** (Discussion had off the record.)

07:53:15 **12** MR. MILLER: No further questions.

07:53:18 **13** MR. MILLER: Your Honor, one second. I'm sorry.

07:53:23 **14** (Discussion had off the record.)

07:53:38 **15** BY MR. MILLER:

07:53:38 **16** Q. Ms. Shakkour, for clarification, when I was asking you

-08:-44:-38 **17** about you couldn't tell whether or not he was translating what

-08:-44:-38 **18** was being typed on the computer, my question was really not what

-08:-44:-38 **19** Mr. Amawi was typing on the computer, but you don't know if Mr.

-08:-44:-38 **20** Amawi was translating what the words on the computer screen

-08:-44:-38 **21** were, whether he was typing them or somebody else was, right?

-08:-44:-38 **22** A. No.

-08:-44:-38 **23** Q. You have no idea, right?

-08:-44:-38 **24** A. No.

07:54:02 **25** MR. MILLER: Thank you.

07:54:03 **1** MS. CLEARY: I have no other questions, Your Honor.

07:54:05 **2** THE COURT: You may step down.

07:54:27 **3** Any further witnesses?

07:54:32 **4** MR. BRYAN: Your Honor, we would approach.

-08:-44:-38 **5** THE COURT: Sure.

08:03:33 **6** (Whereupon the following discussion was had at the

-08:-44:-38 **7** bench outside the hearing of the jury:)

-08:-44:-38 **8** MR. BRYAN: Your Honor, the next witness we plan on

-08:-44:-38 **9** calling I think will take a while.

-08:-44:-38 **10** THE COURT: All right. We'll start tomorrow.

-08:-44:-38 **11** MR. SOFER: Can we get an idea of who we're likely

-08:-44:-38 **12** to see tomorrow?

-08:-44:-38 **13** THE COURT: Ladies and gentlemen, we've run a

-08:-44:-38 **14** little past our normal adjournment time. We will adjourn for

-08:-44:-38 **15** the afternoon. I think -- we hope that the phone connection

-08:-44:-38 **16** will be back up and running. Whatever the eventualities might

-08:-44:-38 **17** be, thank you for your patience and attention. We'll see you

-08:-44:-38 **18** in the morning.

-08:-44:-38 **19** (Jury out.)

-08:-44:-38 **20** THE COURT: What's the line-up for tomorrow; what

-08:-44:-38 **21** position are they playing; what's their batting average?

-08:-44:-38 **22** MR. BRYAN: We called another witness this

-08:-44:-38 **23** afternoon it it would have been Ashraf Zaim. Since we need to

-08:-44:-38 **24** get those out-of-country witnesses, we'll deal with those first.

-08:-44:-38 **25** Finish with Mr. Amawi then do the other two.

-08:-44:-38 **1** MR. WITMER-RICH: I think we'll call the two other
-08:-44:-38 **2** Jordanian witnesses, which is Ahmed Ibrahim and Mohammad Sultan
-08:-44:-38 **3** Al Rawasashdeh.

-08:-44:-38 **4** MR. SOFER: So those two first, actually, and his
-08:-44:-38 **5** father. Then which live witnesses will we see tomorrow, if
-08:-44:-38 **6** any?

-08:-44:-38 **7** MR. BRYAN: To be honest, if we call them, it would
-08:-44:-38 **8** be Ashraf Zaim and Amr Amawi.

-08:-44:-38 **9** THE COURT: That's it, unless your client
-08:-44:-38 **10** testifies?

-08:-44:-38 **11** MR. BRYAN: Unless your client testifies, but we
-08:-44:-38 **12** also have a clip, too, that we talked about.

-08:-44:-38 **13** MR. SOFER: I forgot what that is, but we'll work
-08:-44:-38 **14** that out.

-08:-44:-38 **15** MR. MILLER: The yellow and green.

-08:-44:-38 **16** THE COURT: The phones still aren't working. The
-08:-44:-38 **17** phone company is working on it. I will try to remember before
-08:-44:-38 **18** I leave in an hour or so. Tracy, remind me to check and see
-08:-44:-38 **19** what the deal is and let people know. I think your live
-08:-44:-38 **20** witness should be here at 8:30 so we don't lose the time. So
-08:-44:-38 **21** there's a fair chance that we will get, if Mr. Amawi doesn't
-08:-44:-38 **22** take the stand, to complete tomorrow?

-08:-44:-38 **23** MR. IVEY: Yes, if he doesn't.

-08:-44:-38 **24** THE COURT: Can you be prepared to go forward with
-08:-44:-38 **25** any rebuttal?

-08:-44:-38 **1** MR. SOFER: I would guess the answer to that is
-08:-44:-38 **2** probably no. We'll try.

-08:-44:-38 **3** THE COURT: I'd like it if you could. Basically
-08:-44:-38 **4** that gives everybody an extra full day to get ready. I think
-08:-44:-38 **5** we should plan to spend -- I've got to work on the jury
-08:-44:-38 **6** instructions. I'm out on the town on Friday. So we should
-08:-44:-38 **7** plan Thursday to do whatever it takes to get the instructions
-08:-44:-38 **8** put together. If there are any serious disagreements -- well, I
-08:-44:-38 **9** would ask that whoever's in charge of that be e-mailing each
08:03:34 **10** other. I mean we did, of course, give the charge at the outset
-08:-44:-38 **11** so I would assume there won't be much of anything that's going
-08:-44:-38 **12** to be disputed.

-08:-44:-38 **13** MR. SOFER: Hard to say, but I agree, Judge. We
-08:-44:-38 **14** should be able to work that out.

-08:-44:-38 **15** MR. BRYAN: Judge, I had couple matters. I don't
-08:-44:-38 **16** know if it would be easier to do in open court rather than at
-08:-44:-38 **17** sidebar because actually I was going to have Mr. Hess bring up
-08:-44:-38 **18** something on the monitor for Your Honor to see.

-08:-44:-38 **19** MR. DOUGHTEN: Your Honor, this is kind of a
-08:-44:-38 **20** personal thing. On Thursday my daughter is graduating from
-08:-44:-38 **21** high school at 6:30. I don't know what we're going to be doing
-08:-44:-38 **22** then, but I'm hoping I can sneak out about 3:00. She will
-08:-44:-38 **23** never forgive me. Mr. Helmick will be here. I informed my
-08:-44:-38 **24** client of it. Hopefully there won't be -- I should let the
-08:-44:-38 **25** Court know we have a draft.

-08:-44:-38 **1** THE COURT: If we complete the evidence tomorrow
-08:-44:-38 **2** and we're still working on jury instructions by 3:00 Thursday
-08:-44:-38 **3** afternoon, the ship has some serious holes below the water line.
-08:-44:-38 **4** We may never get done.

-08:-44:-38 **5** MR. DOUGHTEN: We have a draft of our jury
-08:-44:-38 **6** instructions we've done. I've given them to the Amawi team
-08:-44:-38 **7** because they have some charges they're putting in. So we have
-08:-44:-38 **8** a draft we could send to the government.

-08:-44:-38 **9** THE COURT: Do, please.

-08:-44:-38 **10** MR. SOFER: We are 90 percent done with ours. So
-08:-44:-38 **11** that shouldn't be a problem.

-08:-44:-38 **12** THE COURT: Let's envision completing the taking of
-08:-44:-38 **13** evidence tomorrow, including rebuttal. And then Thursday we'll
-08:-44:-38 **14** get together and go over jury instructions and when we're done
-08:-44:-38 **15** we're done. What's the problem, if I can ask, in terms of
-08:-44:-38 **16** rebuttal, getting people here?

-08:-44:-38 **17** MR. SOFER: Potentially one witness which is an
-08:-44:-38 **18** issue, and finishing up, actually putting any of the clips in.
-08:-44:-38 **19** It's going to be very short. We may be able to work it out
-08:-44:-38 **20** tonight. I promise you we will diligently work on it this
-08:-44:-38 **21** evening. Given the schedule and the amount of time that we're
-08:-44:-38 **22** ahead, plus the availability to the defense of having an
-08:-44:-38 **23** occasional short period of time to prepare, I just ask the Court
-08:-44:-38 **24** to at least consider, if I can't do it by tomorrow, that at
-08:-44:-38 **25** least consider my humble and truthful and honest request that we

-08:-44:-38 **1** really need another maybe only half a day to get it ready. But
-08:-44:-38 **2** we might need a little extra time. You're asking me a question
-08:-44:-38 **3** to anticipate what the government's rebuttal is before we've
-08:-44:-38 **4** heard all the defense witnesses.

-08:-44:-38 **5** MR. HELMICK: At this time does government
-08:-44:-38 **6** anticipate rebuttal against Mr. Mazloun?

-08:-44:-38 **7** MR. SOFER: After the last witness I now would say
-08:-44:-38 **8** probably yes and probably less than an hour's worth of it at
-08:-44:-38 **9** this juncture.

-08:-44:-38 **10** THE COURT: All I'm saying, please make every
-08:-44:-38 **11** effort. If they get done by early afternoon, I really want to
-08:-44:-38 **12** go ahead.

-08:-44:-38 **13** MR. SOFER: I know you do, Judge, as do we.

-08:-44:-38 **14** THE COURT: Because that way what I would expect is
-08:-44:-38 **15** we will start Tuesday morning with your closing, and what, day
-08:-44:-38 **16** or days do you think on closing?

-08:-44:-38 **17** MR. SOFER: I think if I had to guess, I think it
-08:-44:-38 **18** will take a day.

-08:-44:-38 **19** THE COURT: What I would like to do is anticipate
-08:-44:-38 **20** the case in the jury's hands by the end of next week. Whether
-08:-44:-38 **21** that means before Friday or not, get it in their hands, and if
-08:-44:-38 **22** they get it on Friday, then we'll -- whenever they get it it's
-08:-44:-38 **23** up to them. I'd like this week to finish the evidence and work
-08:-44:-38 **24** on the instructions next week, start Tuesday morning with the
-08:-44:-38 **25** instructions to the jury, and then your argument and try to do

-08:-44:-38 **1** that within Tuesday. And then Wednesday and Thursday I would
-08:-44:-38 **2** assume for defense arguments, your closing. Thursday or Friday
-08:-44:-38 **3** morning. Then it's in their hands.

-08:-44:-38 **4** MR. SOFER: Again, Judge, I think that's a
-08:-44:-38 **5** reasonable schedule but if it turns out that -- I've talked a
-08:-44:-38 **6** little bit with defense counsel. And if they or we decide that
-08:-44:-38 **7** another day or two would be agreeable in terms of preparing our
-08:-44:-38 **8** closing arguments, I -- again I'd ask the Court to consider
-08:-44:-38 **9** being flexible about that.

-08:-44:-38 **10** THE COURT: We'll see. I have some other matters I
-08:-44:-38 **11** have to tend to. All right.

08:04:09 **12** (End of side-bar discussion.)

08:04:12 **13** THE COURT: What's the problem?

08:04:14 **14** MR. BRYAN: Over the weekend, as I was preparing
-08:-44:-38 **15** part of Mr. Amawi's defense, and knowing we were going to
-08:-44:-38 **16** present evidence, there were a couple items that I came across,
08:04:23 **17** things that have been discussed in the past with the government
-08:-44:-38 **18** on a couple occasions I wanted to bring to the Court's attention
-08:-44:-38 **19** before we get to the point where we have to rest our case.

-08:-44:-38 **20** There was some discussion earlier about a stack of
08:04:42 **21** receipts that the government had given to Your Honor, for Your
-08:-44:-38 **22** Honor to review and determine if the receipts are exculpatory in
-08:-44:-38 **23** any way, shape or form. There's testimony in the record right
-08:-44:-38 **24** now that the FBI authorized \$850 to be paid through Mr. Griffin
-08:-44:-38 **25** to Mr. Amawi, sometime in November I believe, to get Mr. Amawi

08:05:05 **1** caught up with his rent. I believe there's additional evidence
-08:44:38 **2** in the record or -- or not the record yet, but could potentially
-08:44:38 **3** come into the record through one of our witnesses tomorrow that
-08:44:38 **4** show that the rent still had not been paid as early as November
08:05:20 **5** and that the testimony is specifically that in December when Mr.
-08:44:38 **6** Amawi's brother returned, in fact the government has an --
-08:44:38 **7** THE COURT: What year are you talking about?
08:05:30 **8** MR. BRYAN: In December of 2004. Mr. Amawi's
08:05:33 **9** brother, Amr, had returned to Jordan in September of 2004 and
08:05:40 **10** remained there until December of 2004 when he returned to
-08:44:38 **11** Toledo, Ohio, and resumed his residency with Mr. Amawi. During
-08:44:38 **12** that time Mr. Amawi was not working and was not paying the rent
-08:44:38 **13** nor the utilities or anything else. And they all fell into
08:05:56 **14** arrears, including the rent.
08:05:58 **15** The government, in one of their 1D-s, has a
08:06:02 **16** conversation between Mr. Amawi and his brother Amr in the
08:06:07 **17** presence of Darren Griffin where Mr. Amawi, Amr Amawi, is
08:06:13 **18** complaining that all of this is in my name, there's a problem
08:06:16 **19** here. He said we still owe the rent for September, for
08:06:21 **20** October, for November and now December. In essence, that the
-08:44:38 **21** rent had not yet been paid when the government had indicated to
-08:44:38 **22** the agent that this money was given to Mr. Amawi. We expect
-08:44:38 **23** testimony to be introduced that Mr. Amawi then produced another
08:06:41 **24** couple thousand dollars to give to his brother, money that
08:06:44 **25** obviously he wasn't able to earn on his own because he hadn't

-08:-44:-38 **1** been working, began his employment with Mr. Zaim around that
-08:-44:-38 **2** same exact time that he hadn't been working.

-08:-44:-38 **3** So specifically what I'm directing the government's
08:06:57 **4** attention to, so they can assist Your Honor, is if there are any
08:07:01 **5** receipts that reflect payment from the FBI to Darren Griffin in
08:07:04 **6** December of 2004 -- I'm sorry, that would be in January,
-08:-44:-38 **7** February -- the conversation was in December, 2004, but it's to
-08:-44:-38 **8** our understanding that the money was actually tendered in
08:07:17 **9** January, February, 2004 (sic), reflecting these.

08:07:21 **10** THE COURT: 2004 or 2005? I'm confused.

08:07:25 **11** MR. BRYAN: I'm sorry, December 2004 to January
-08:-44:-38 **12** 2005, that whether or not the government, through Mr. Griffin's
08:07:34 **13** dime, the assistance of Mr. Amawi to provide additional funds.
-08:-44:-38 **14** So obviously we believe if such a receipt existed that that
08:07:42 **15** would be Brady evidence to show the government has proved Mr.
-08:-44:-38 **16** Griffin's still providing favors to Mr. Amawi.

08:07:50 **17** THE COURT: Will you check that tonight?

-08:-44:-38 **18** MR. SOFER: Actually, Your Honor has the records, I
-08:-44:-38 **19** believe, still.

08:07:56 **20** THE COURT: I'll give them back to you.

-08:-44:-38 **21** MR. SOFER: You can give them back to us. We'll
-08:-44:-38 **22** check it. The fact that there was money given to Mohammad
-08:-44:-38 **23** Amawi for his rent and he may not have used the money to pay his
08:08:09 **24** rent does not appear to me to be an issue whatsoever in terms of
-08:-44:-38 **25** the government's allegations. If what Counsel's asking is

08:08:17 **1** whether further payment by the FBI through Mohammad Amawi -- I'm
-08:-44:-38 **2** sorry, through Darren Griffin to Mohammad Amawi, we can check
-08:-44:-38 **3** the records to see whether or not.
-08:-44:-38 **4** THE COURT: Okay.
08:08:28 **5** MR. BRYAN: Now I'll ask Mr. Hess to bring up the
-08:-44:-38 **6** court assisted monitors. During discovery we received a series
08:08:37 **7** of documents given to Mr. Sofer. Actually, we see a bunch of
-08:-44:-38 **8** photographs.
08:08:45 **9** THE COURT: Mr. Sofer.
-08:-44:-38 **10** MR. SOFER: We had this confusion another time.
08:08:52 **11** It's a different stack of papers. They're back in your
08:08:55 **12** chambers, I believe.
08:08:57 **13** THE COURT: Talk to me about it.
-08:-44:-38 **14** MR. SOFER: Will do.
08:09:02 **15** MR. BRYAN: During discovery we received a number
-08:-44:-38 **16** of surveillance photographs that were taken of Mohammad Amawi at
-08:-44:-38 **17** various times and places. Most of them depict Mr. Amawi and
-08:-44:-38 **18** other individuals walking outside AZ Travel or other places.
-08:-44:-38 **19** Specifically we received a series of photographs that were taken
-08:-44:-38 **20** of Mr. Amawi through a glass window of the Natural Food Market.
-08:-44:-38 **21** They just came up here. And the jpeg numbers of these digital
-08:-44:-38 **22** photos are on the photos. The first one is listed. This one
08:09:38 **23** begins with 6. Then there's a series of photos missing because
-08:-44:-38 **24** the next photo in the series that we received goes up to -- is
-08:-44:-38 **25** that the first one?

08:09:59 **1** Actually, the discovery is actually supposed to say
-08:44:38 **2** 11. I don't know why it says 1.
08:10:22 **3** THE COURT: While you're doing that, Tracy has to
-08:44:38 **4** leave at 5:15.
08:10:34 **5** MR. BRYAN: The jpeg number appears now in the
-08:44:38 **6** upper left-hand corner. So apparently missing in this sequence
-08:44:38 **7** are photos 7, 8, 9 and 10. And then if we continue, the
08:10:49 **8** sequence continues, it goes to 12 jpeg, 13 jpeg as Mr. Amawi
08:10:55 **9** starts to look towards the direction of the camera. Then it
-08:44:38 **10** goes to 14 jpeg as Mr. Amawi seems to be looking right at the
-08:44:38 **11** camera. Then the next jpeg number is jpeg 16. So there
08:11:07 **12** appears to be a jpeg number 15 that is missing.
-08:44:38 **13** We believe that photo contains exculpatory
08:11:14 **14** evidence, Your Honor, in that it shows Mr. Amawi making a
-08:44:38 **15** gesture at the surveillance person who was taking surveillance
-08:44:38 **16** at the time. And we're asking the government to produce that
08:11:25 **17** at this time. Also, as it relates to the earlier photos that
08:11:30 **18** seem to be missing in sequence, that photo 6 through photo 11
08:11:35 **19** seem to be missing as well. We had done some investigation
-08:44:38 **20** concerning this incident. And it's our belief that Mr. Amawi
08:11:44 **21** called some people who were with him at the time over to the
08:11:48 **22** window to show them that there's someone out there in the car
08:11:51 **23** taking pictures of me. Those individuals' vehicles are located
-08:44:38 **24** in the picture. Also in some of the pictures you can see that
-08:44:38 **25** there's snow on the ground, that the parking lot had been

08:12:05 **1** plowed. The government would know the date these photos were
08:12:08 **2** taken.
08:12:09 **3** It's our belief this is a reflection of something
-08:-44:-38 **4** that happened in the winter of 2005, and that the series of
08:12:18 **5** photographs reflect there are missing photographs and we believe
08:12:21 **6** that those missing photographs are exculpatory. We're basically
08:12:25 **7** asking the government to produce them. We asked Mr. Getz about
-08:-44:-38 **8** this a couple weeks -- last week Mr. Witmer-Rich asked Mr. Getz
08:12:33 **9** specifically these same questions. His answer -- and I presume
-08:-44:-38 **10** this is what they're going to tell Your Honor -- is that every
-08:-44:-38 **11** picture we have of Mohammad Amawi you have of Mohammad Amawi.
-08:-44:-38 **12** And so I would just ask them to produce jpeg number 15, and jpeg
-08:-44:-38 **13** numbers 6, 7, 8, 9, 10 -- not 6; we have six. 6, 7, 8, 9, 10,
-08:-44:-38 **14** so we can see whether those pictures don't contain Mr. Amawi.
08:13:02 **15** If they are taken in sequence they obviously involve --
-08:-44:-38 **16** THE COURT: I understand.
-08:-44:-38 **17** MR. SOFER: We'll take a look at this again, Judge,
-08:-44:-38 **18** but I do believe we filled our discovery obligations.
-08:-44:-38 **19** THE COURT: Do you know where those pictures are?
08:13:15 **20** MR. SOFER: As we sit here, I certainly don't.
08:13:18 **21** THE COURT: Let them know maybe tonight if
-08:-44:-38 **22** possible.
-08:-44:-38 **23** MR. SOFER: It's also not clear to me why Mr. Amawi
08:13:26 **24** is making a gesture at somebody would necessarily be
08:13:29 **25** exculpatory. We'll take a look to see if such a picture exists.

08:13:33 **1** THE COURT: I don't know. I assume for
08:13:35 **2** confirmation. If I were in their shoes, it would fit into the
-08:-44:-38 **3** contention that he was aware that, as other evidence indicates,
-08:-44:-38 **4** that he was under surveillance, so forth and so on.
08:13:48 **5** MR. BRYAN: The earlier we can show Mr. Amawi was
08:13:52 **6** aware he was under surveillance, it goes to the heart of our
-08:-44:-38 **7** defense.
-08:-44:-38 **8** THE COURT: I understand.
08:13:57 **9** MR. BRYAN: I think the government's willing to
-08:-44:-38 **10** concede, based upon the presentation of their case as of May 1,
08:14:03 **11** that Mr. Amawi was -- not only that but they brought in the law
-08:-44:-38 **12** enforcement officers that testified Mr. Amawi said he was being
-08:-44:-38 **13** followed. We believe this picture shows Mr. Amawi was aware of
-08:-44:-38 **14** surveillance at a much earlier time.
-08:-44:-38 **15** MR. SOFER: We'll get back to the courtroom
-08:-44:-38 **16** tomorrow morning.
08:14:20 **17** THE COURT: If you are able to inform them of a
08:14:24 **18** period when you think those photographs may have been taken,
-08:-44:-38 **19** please do so.
-08:-44:-38 **20** MR. SOFER: Will do.
-08:-44:-38 **21** THE COURT: I'm asking defense counsel.
-08:-44:-38 **22** MR. BRYAN: Which we assume it's in the winter.
-08:-44:-38 **23** THE COURT: Winter of?
08:14:36 **24** MR. BRYAN: Winter of '05, Your Honor.
-08:-44:-38 **25** THE COURT: Meaning what month?

08:14:41 **1** MR. BRYAN: It could actually be December of '04.

-08:-44:-38 **2** THE COURT: December 4, January 5, February 5,

08:14:49 **3** roughly, or whenever.

-08:-44:-38 **4** MR. BRYAN: I think the investigative records of

-08:-44:-38 **5** the government would reveal exactly when.

-08:-44:-38 **6** THE COURT: I would assume if these were taken by a

-08:-44:-38 **7** government agent, maybe 302.

08:15:01 **8** MR. BRYAN: The digital history reflects February

-08:-44:-38 **9** 6, '05, Your Honor.

08:15:07 **10** MR. SOFER: We'll take a look, Judge.

08:15:09 **11** MR. BRYAN: That would have been maybe when it was

08:15:12 **12** downloaded or whatever. But at least before that. That date

-08:-44:-38 **13** or before.

08:15:16 **14** Along those same lines we were able to view some

-08:-44:-38 **15** surveillance, video surveillance of Mr. Amawi, that was

-08:-44:-38 **16** apparently taken by video camera by agents or technicians

08:15:29 **17** before. Before the cross-examination.

-08:-44:-38 **18** THE COURT: What?

08:15:33 **19** MR. BRYAN: We received in discovery video

08:15:37 **20** surveillance, actual camcorder surveillance of Mr. Amawi as he

-08:-44:-38 **21** was going to and from various places. Before -- or prior to

08:15:47 **22** Agent Coats testifying. I inquired with Mr. Sofer whether or

-08:-44:-38 **23** not Agent Coats had any surveillance logs that would be of

08:15:57 **24** Jencks material. And he said no, Agent Coats didn't conduct

-08:-44:-38 **25** any of the surveillance in this case. He said that's conducted

-08:-44:-38 **1** by technicians of the FBI, that the case agents aren't the ones
-08:-44:-38 **2** out there actually doing the surveillance; there are other
08:16:10 **3** people that actually do that.

-08:-44:-38 **4** One of the surveillance videos shows Mr. Amawi
-08:-44:-38 **5** coming out the back door of AZ Travel, and the camera is
-08:-44:-38 **6** basically right on Mr. Amawi, it's sort of blown up. It's
-08:-44:-38 **7** obviously shot from across the street. I believe it's probably
08:16:26 **8** shot from the parking lot, the hospital parking lot that sits
-08:-44:-38 **9** across the street from AZ Travel. Mr. Amawi walks out the door
-08:-44:-38 **10** and rolls up his shirt real slowly, directly as he's looking at
08:16:39 **11** the camera. As he finishes rolling up the sleeves directly as
-08:-44:-38 **12** he's looking at the camera, the camera suddenly starts taping
-08:-44:-38 **13** the inside of the vehicle. I have reason to believe at that
-08:-44:-38 **14** juncture, as Mr. Amawi was staring directly at persons he
08:16:54 **15** believed were videotaping, he proceeded to give the individuals
08:16:58 **16** multiple gestures reflecting that he knew that they were there
-08:-44:-38 **17** and they were videotaping. I can't tell from the video itself
08:17:06 **18** what time of year it was, although I don't believe there's any
08:17:09 **19** leaves on the trees, so I believe it's probably in the winter
-08:-44:-38 **20** or -- late winter, spring of 2005.

08:17:16 **21** THE COURT: What do you want?

08:17:19 **22** MR. BRYAN: Again, if there's an agent, not an
08:17:23 **23** agent or any government agent who conducted surveillance of Mr.
08:17:27 **24** Amawi that day and he kept a log and in that log it's reflected
-08:-44:-38 **25** that Mr. Amawi made gestures towards them -- I know that the

-08:-44:-38 **1** government's interpretation of what's exculpatory and our
08:17:38 **2** interpretation of exculpatory is different. I'm just putting
-08:-44:-38 **3** the government on notice that we believe if there's surveillance
08:17:45 **4** logs that reflect Mr. Amawi ever at any time recognizing the
08:17:49 **5** surveillance and gesturing or even just recognizing,
-08:-44:-38 **6** acknowledging the surveillance, that we would be entitled to
-08:-44:-38 **7** that as Brady because, again, it goes to prove that Mr. Amawi,
08:18:00 **8** at earlier dates was aware that he was being followed.
-08:-44:-38 **9** THE COURT: You have made a request of this.
08:18:06 **10** MR. BRYAN: I have, Your Honor, and was met with
-08:-44:-38 **11** the same sort of weak: We've given you everything that you're
08:18:14 **12** entitled to.
08:18:15 **13** MR. SOFER: A couple corrections, or at least one.
-08:-44:-38 **14** I believe I told Counsel simply it was not the usual course for
-08:-44:-38 **15** one of the case agents to be conducting surveillance in this
-08:-44:-38 **16** case, physical surveillance. Again, we'll take a look back
-08:-44:-38 **17** through the -- whatever information we have to see whether there
-08:-44:-38 **18** is a notation that says Mohammad Amawi made a gesture at a
08:18:42 **19** certain time at the surveillance team, whoever that surveillance
-08:-44:-38 **20** team was. Again, if we had a timeframe it would be certainly
-08:-44:-38 **21** more helpful for us.
08:18:53 **22** THE COURT: Do you have that?
08:18:58 **23** MR. BRYAN: Mr. Amawi has it on his computer.
-08:-44:-38 **24** THE COURT: At least let them see that at some
-08:-44:-38 **25** point.

08:19:06 **1** MR. BRYAN: We don't have a date, Your Honor. We
08:19:09 **2** can tell them what video it is and --
-08:-44:-38 **3** THE COURT: If it has an identifying number of some
-08:-44:-38 **4** sort, let them know what it is so that may be a hook for them,
-08:-44:-38 **5** it may become possible for them.
-08:-44:-38 **6** MR. BRYAN: Finally, Your Honor, the issue of the
-08:-44:-38 **7** internet service provider has been well laid in the case. The
-08:-44:-38 **8** internet service provider records the government obtained some
08:19:32 **9** time ago, actually a long time ago, I think actually while the
-08:-44:-38 **10** case was still under investigation. As Your Honor's aware, we
-08:-44:-38 **11** sought those as well by subpoena power which was denied by the
08:19:44 **12** service providers. Then we motioned the Court. Your Honor
-08:-44:-38 **13** denied that motion sometime last week.
-08:-44:-38 **14** Specifically what we were looking for -- I just
-08:-44:-38 **15** want to put the government on notice again -- one of the issues
-08:-44:-38 **16** in this case is whether or not Mr. Amawi had e-mail or internet
08:19:59 **17** access or internet contact with a person from Syria related to
08:20:04 **18** the issue of Astrolite or the issue of laptop computers. And
08:20:08 **19** it's our position that any absence of such a record, any absence
-08:-44:-38 **20** of such an internet record would be exculpatory if we were to
-08:-44:-38 **21** show the jury that during these time periods that Mr. Amawi did
-08:-44:-38 **22** not actually e-mail somebody in Syria or whatever. More
-08:-44:-38 **23** specifically though --
08:20:26 **24** THE COURT: Well, it would seem to me -- I haven't
-08:-44:-38 **25** heard from the government on this -- it would seem to me that

-08:-44:-38 **1** you can -- what's evidence is evidence. And you can point out
-08:-44:-38 **2** in closing argument there's no evidence that's been introduced
08:20:42 **3** of any such communication.

08:20:51 **4** Certainly. Let's put it this way: If the
-08:-44:-38 **5** government had a copy of any kind of communication where a
-08:-44:-38 **6** defendant said, I don't want to have A, B or C, then that would
08:21:11 **7** clearly mean the government's trying to show it did and it's
08:21:15 **8** exculpatory. There's nothing like that. And the fact that
08:21:19 **9** there is no evidence -- I'm not sure getting no evidence from
-08:-44:-38 **10** the internet service provider would provide to you beyond what
08:21:30 **11** you've already got. I mean, the jury's been told countless
-08:-44:-38 **12** times, as recently as an hour ago, they decide the case on the
-08:-44:-38 **13** basis of the evidence. And I think you're able to say, look,
08:21:46 **14** ladies and gentlemen, there's no evidence other than what's in
-08:-44:-38 **15** the case.

08:21:56 **16** MR. BRYAN: That's understood, Your Honor. I
-08:-44:-38 **17** would characterize that as sort of negative evidence. But in
-08:-44:-38 **18** the form of positive evidence, one of the things, the defendant
-08:-44:-38 **19** might be put in the position --

08:22:11 **20** THE COURT: I characterize it as non-evidence.

08:22:14 **21** MR. BRYAN: Fair characterization, Your Honor.

-08:-44:-38 **22** But in the nature of real evidence, one of the
08:22:19 **23** reasons they -- I didn't want to reveal this at any time prior
-08:-44:-38 **24** to this juncture, but since we're literally coming close to the
-08:-44:-38 **25** end of our case, we were also interested in some specific

08:22:32 **1** e-mails that we believe may have been in Mr. Amawi's e-mail
-08:-44:-38 **2** history. I can't given an exact date and time because we
08:22:42 **3** didn't have the opportunity to look at this or view it. But we
-08:-44:-38 **4** believe that there may be an e-mail in Mr. Amawi's internet
-08:-44:-38 **5** history from a young lady known as Isra Abdalrahim,
08:22:57 **6** A-B-D-A-L-R-A-H-I-M, and it was -- with an attachment, an e-mail
08:23:07 **7** with an attachment that was a letter that was written on behalf
-08:-44:-38 **8** of Mr. Amawi by this young lady and at Mr. Amawi's request --
08:23:18 **9** at Mr. Amawi's request documenting the things that were
08:23:22 **10** happening to him in his life as it related to people following
-08:-44:-38 **11** him, maybe even as it related specifically to Darren Griffin
08:23:30 **12** himself, that there's this gentleman that's pretending to be my
-08:-44:-38 **13** best friend and things of that nature.

-08:-44:-38 **14** Unfortunately, we don't have a hard copy of that
-08:-44:-38 **15** letter but we believe that this young lady e-mailed a copy of
-08:-44:-38 **16** that letter to Mr. Amawi because Mr. Amawi, although he speaks
08:23:47 **17** English very well, in his -- and is reading English better now,
-08:-44:-38 **18** his ability to write English was somewhat suspect during this
-08:-44:-38 **19** time period in 2005. It's a letter, unfortunately, that we
08:24:03 **20** haven't been able to secure from the person who wrote it. And
08:24:08 **21** I have interviewed her. I've contacted her. She remembers
-08:-44:-38 **22** writing the letter. She said she e-mailed the letter to Mr.
08:24:15 **23** Amawi.

-08:-44:-38 **24** THE COURT: Where is she?

08:24:19 **25** MR. BRYAN: She's in Chicago, Illinois, now. At

-08:-44:-38 **1** the time she was in New York City. Back in 2005.

-08:-44:-38 **2** THE COURT: She available as a witness? If it's

-08:-44:-38 **3** your understanding there's no copy of the communication, the

-08:-44:-38 **4** person can testify: Yes, once upon a time I wrote this

08:24:36 **5** communication. I do not have a copy, but this is what I

08:24:39 **6** communicated. To the extent that it's relevant and pertinent.

08:24:43 **7** MR. BRYAN: That's understood, Your Honor. I did

-08:-44:-38 **8** contact her. She's now -- her life has moved on. She's

-08:-44:-38 **9** living in Chicago. She's married, and I think she was about

08:24:52 **10** ready to have a child. More important to us was in the sense

08:24:56 **11** that the government can argue that any frame of mind can come in

08:25:01 **12** and say anything. What was more critical to us would be the

-08:-44:-38 **13** actual letter, because -- the e-mail itself, because it would be

08:25:07 **14** obviously written at a time prior to when Mr. Amawi was even

-08:-44:-38 **15** charged in the case. The e-mail itself, we believe, is

08:25:13 **16** exculpatory. And if the government's in the possession of that

08:25:17 **17** e-mail or that letter attached, they should turn that over.

08:25:20 **18** THE COURT: I can only assume that -- well, the

-08:-44:-38 **19** government now is on notice; you've made a request for this

-08:-44:-38 **20** specific item, which you believe is exculpatory. And as I've

08:25:33 **21** indicated before, I don't order the government to produce Brady

-08:-44:-38 **22** material. If it's going to ignore the Constitution, it's not

-08:-44:-38 **23** going to pay any attention to the Court.

08:25:43 **24** MR. BRYAN: I appreciate that, Your Honor.

-08:-44:-38 **25** THE COURT: I would note, though, that a subpoena

-08:-44:-38 **1** to appear in a criminal case runs nationwide. And it's up to
08:25:55 **2** you to determine whether or not you want to call that witness in
-08:-44:-38 **3** lieu of the communication. The fact that the government might
08:26:01 **4** be in a position to discredit her testimony, well, same as any
08:26:08 **5** witness anybody can call. That's part of the purpose of
08:26:11 **6** cross-examination. And that's your choice.

08:26:15 **7** MR. BRYAN: That's true, Your Honor. The letter,
-08:-44:-38 **8** obviously, would corroborate her testimony, but...

08:26:21 **9** THE COURT: If it's not there, it's not.

08:26:24 **10** MR. BRYAN: What I'm telling the government at this
-08:-44:-38 **11** time is that we interpret that to be exculpatory inasmuch as it
-08:-44:-38 **12** shows Mr. Amawi may have been aware not only that he was being
08:26:34 **13** followed, that he was being surveilled, but that Mr. Griffin was
08:26:37 **14** working on behalf of the government but not on behalf of Mr.
-08:-44:-38 **15** Amawi during this period of time. And so if the letter exists,
08:26:49 **16** and it's in their possession, we expect it to be turned over.

08:27:00 **17** MR. SOFER: I'll say once again, we're aware of our
08:27:03 **18** Brady obligations and have lived up to them, I believe, to the
-08:-44:-38 **19** letter of the law.

-08:-44:-38 **20** THE COURT: See you bright and early tomorrow
08:27:10 **21** morning, 8:30. I've asked Joyce to let me know. I'm going to
-08:-44:-38 **22** try to get a contact person with the phone company to find out
-08:-44:-38 **23** so that I can be informed about what's going on. If I am, I'll
-08:-44:-38 **24** try to -- if somebody can send me an e-mail with all of your
08:27:28 **25** e-mail addresses -- Mr. Helmick, you've done that before -- that

-08:-44:-38

1 way, if I do learn anything, I can let you know.

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C E R T I F I C A T E

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I certify that the foregoing is a correct transcript from the

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record of proceedings in the above-entitled matter.

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9

/s Tracy L. Spore _____

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Tracy L. Spore, RMR, CRR

Date

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1 I N D E X**2****3****4** ZAKI AMAWI, DIRECT EXAMINATION 6019**5** BY MS. CLEARY:**6** ZAKI AMAWI, CROSS-EXAMINATION 6044**7** BY MR. SOFER:**8** ZAKI AMAWI, REDIRECT EXAMINATION 6086**9** BY MS. CLEARY:**10** SALWA ELKHECHEN, DIRECT EXAMINATION 6091**11** BY MR. ABDRABBOH:**12** SALWA ELKHECHEN, CROSS-EXAMINATION 6124**13** BY MR. HERDMAN:**14** SALWA ELKHECHEN, REDIRECT EXAMINATION 6140**15** BY MR. ABDRABBOH:**16** MANNOUN SHAKKOUR, DIRECT EXAMINATION 6159**17** BY MS. CLEARY:**18** MANNOUN SHAKKOUR, CROSS-EXAMINATION 6167**19** BY MR. MILLER:**20****21****22****23****24****25**